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JIM EDGAR
Secretary of State

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ILLINOIS REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1989	Dec. 26, 1989	1	Jan. 5, 1990	June 26, 1990	July 3, 1990	28	July 13, 1990
Dec. 26, 1990	Jan. 2, 1990	2	Jan. 12, 1990	July 3, 1990	July 10, 1990	29	July 20, 1990
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Feb. 13, 1990	Feb. 20, 1990	9	Mar. 2, 1990	Aug. 21, 1990	Aug. 28, 1990	36	Sept. 7, 1990
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Mar. 13, 1990	Mar. 20, 1990	13	Mar. 30, 1990	Sept. 18, 1990	Sept. 25, 1990	40	Oct. 5, 1990
Mar. 20, 1990	Mar. 27, 1990	14	Apr. 6, 1990	Sept. 25, 1990	Oct. 2, 1990	41	Oct. 12, 1990
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Apr. 24, 1990	May 1, 1990	19	May 11, 1990	Oct. 30, 1990	Nov. 5, 1990	46	Nov. 16, 1990
May 1, 1990	May 8, 1990	20	May 18, 1990	Nov. 5, 1990	Nov. 13, 1990	47	Nov. 26, 1990 (Mon.)
May 8, 1990	May 15, 1990	21	May 25, 1990	Nov. 13, 1990	Nov. 20, 1990	48	Nov. 30, 1990
May 15, 1990	May 22, 1990	22	June 1, 1990	Nov. 20, 1990	Nov. 27, 1990	49	Dec. 7, 1990
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June 12, 1990	June 19, 1990	26	June 29, 1990	Dec. 18, 1990	Dec. 24, 1990	1	Jan. 4, 1991
June 19, 1990	June 26, 1990	27	July 6, 1990	Dec. 24, 1990	Dec. 31, 1990	2	Jan. 11, 1991

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Large Business Development Program
- 2) Code Citation: 14 Ill. Adm. Code 590
- 3) Section Numbers: Proposed Action:
 590.25 Amendment
 590.30 Amendment
 590.92 Amendment
- 4) Statutory Authority: Implementing and authorized by the Large Business Development Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 127, pars. 2710-1 et seq.).

5) A Complete Description of the Subjects and Issues Involved: Sections 590.25, 590.30 and 590.92 have been modified to allow comprehensive business plans or company annual reports in lieu of other detailed application documentation when such reports address the same requirements. Section 590.25 has also been modified to reflect changes in the application regarding company management and ownership. In Sections 590.30 and 590.92, the language has been revised to clarify that applicants notified of deficiencies in their applications need only submit additional documentation to correct the deficiencies, not another entire application. These Sections have also been revised to allow the Department 45 days from the receipt of a complete application for its review and evaluation. In Sections 590.30(c) and 590.92(c), a correction has been made to state that projects will be considered for funding at a higher ratio, rather than a lower ratio, if severe need can be demonstrated. In Sections 590.30(d) and 590.92(d), the reference to the "Robert Morris Associates Annual Statement Studies" has been updated to reflect the 1988 edition. Additionally, this subsection has been revised to allow the use of other sources, comparable to the "Robert Morris Associates Annual Statement Studies", in evaluating the information derived from the standard credit analysis.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? Yes, under Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1987, ch. 85, par. 2203).

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
 Department of Commerce and Community Affairs
 Bureau of Program Administration
 620 East Adams Street, 5th floor
 Springfield, Illinois 62701
 (217) 782-6136

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 4, 1990.
- B) Types of small businesses and small municipalities affected: This rulemaking does not affect small businesses or small municipalities. Amendments affect large businesses who apply for and receive loans for large business development and grants for interest write-down.
- C) Reporting, bookkeeping or other procedures required for compliance: All large business applying for loans/grants under Subparts A and C of the Illinois Large Business Development Program rules must submit the required financial statements. The types of allowable financial statements have been expanded to better accommodate applicants.
- D) Types of professional skills necessary for compliance: Accounting staff of the large businesses should possess the necessary skills for compliance.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
 SUBTITLE C: ECONOMIC DEVELOPMENT
 CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 590

ILLINOIS LARGE BUSINESS DEVELOPMENT PROGRAM

SUBPART A: LOANS FOR LARGE BUSINESS DEVELOPMENT

Section	Purpose
590.10	Loan Terms (Renumbered)
590.15	Application Cycle
590.20	Application Documentation
590.25	Evaluation Process
590.30	Selection for Funding
590.40	Funding Limitations
590.50	Allowable Leverage
590.60	Administrative Requirements
590.70	

SUBPART B: GRANTS FOR DEMOLITION OF ABANDONED BUILDINGS

Section	Purpose
590.80	Application Evaluation
590.81	

SUBPART C: GRANTS FOR INTEREST WRITE-DOWN

Section	Purpose
590.90	Application Cycle
590.91	Evaluation Process
590.92	Funding Limitations
590.93	

AUTHORITY: Implementing and authorized by the Large Business Development Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 127, pars. 2710-1 et seq.).

SOURCE: Emergency rules adopted at 9 Ill. Reg. 14357, effective September 6, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 3252, effective January 28, 1986; amended at 10 Ill. Reg. 19386, effective October 31, 1986; amended at 13 Ill. Reg. 2028, effective February 6, 1989; amended at 14 Ill. Reg. _____, effective _____.

Section 590.25 Application Documentation

The application must include documentation of the following:

- a) History of the Company - a brief history of the business and past employment growth.

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- b) Market Information - information on the company's products or services and identification of existing and potential major customers and competitors.

- c) Corporate Historic Financial Statements - historical-corporate financial statements for the past three years and interim statements dated no more than ninety days prior to application including:
 - 1) Profit and Loss Statements;
 - 2) Balance Sheets;
 - 3) Cash Flow Statements; and
 - 4) Disclosure of Contingent Liabilities.

- d) Three-Year Projections Projected Financial Statements - three year projections of the Profit and Loss Statement and Balance Sheet and a one year Monthly Cash Flow Projection.

- e) Site Map - an outline of the general location of the project on a site map, reflecting the location of any floodplain areas.

- f) Land and Building Information (if applicable) - for land and/or building acquisition, an MAI appraisal and a copy of the purchase option or agreement; for building construction or renovation, a contractor or architect's cost estimates.

- g) Description of Machinery and Equipment (if applicable) - identification of major equipment or classes of equipment to be acquired with the Department's program funds; for acquisition of new machinery and equipment, attachment of reliable vendor cost estimates; for moving and installation costs, attachment of written estimates; for used machinery and equipment acquisition, an appraisal demonstrating that the fair market value is in line with the purchase price.

- h) Company Management - listing of those individuals people that who are responsible for the management of the company, their positions and responsibilities, and resumes of key senior individuals at the company location.

- i) Personal-Resumes - a resume for senior staff at the proposed project site. Ownership - the company will provide a detailed statement of ownership which shall include a percentage of ownership. Such statements shall clearly identify any ownership interest which amounts to 20% or more, any ownership interest

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which is considered to be controlling the business, and/or any interest which is guaranteeing any financial or contractual activities of the company. For all such entities which meet any conditions of this subsection, a financial statement shall be provided.

- j) Letters of Commitment - documentation of all sources of leveraging as reflected in commitment letters; loans from financial institutions must have language indicating the loan amount, the specified term and interest, collateral, conditions attendant to the loan, and the fact that the loan is approved; any commitment to purchase a revenue bond must have an executed inducement resolution and the rates, terms, and conditions of approval by the buyers.

- k) The Department shall waive the requirements of subsections(a), (b), (c), (d), (h), and (i) when:

- 1) The company has submitted a comprehensive business plan or company annual reports; and
- 2) The company is publicly owned and traded; and
- 3) The company's historic financial condition is deemed excellent, meeting industry standards in accordance with Section 590.30(d).

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 590.30 Evaluation Process

The Department shall screen all applications to determine that all requirements of the application package have been addressed. Complete applications will be reviewed and evaluated by Department staff. Applicants will be notified of deficiencies in applications and given an opportunity to correct such deficiencies through resubmission of additional documentation (see Section 590.25). This review and evaluation process will be completed within 3045 days of the Department's receipt of a complete the application. Department staff will conduct an evaluation of each application to assure compliance with the requirements specified in the Large Business Development Act (Article 10 of P.A. 84-109, effective July 25, 1985) (Act). The evaluation will address the following technical criteria:

- a) Evidence of Need for Program Funds
- 1) It should be demonstrated, for example, that the firm has multi-state location options and that additional funds will be leveraged -- to cover up to 75 percent of total project

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costs.

- 2) The business project must create or retain at least 300 full-time equivalent jobs over a 24 month period. The Director may waive the requirement for 300 jobs to be created/retained for a large company meeting all other program criteria, as specified in the Act and this Part, but due to extenuating circumstances, cannot create 300 jobs (e.g., distressed community with unemployment rate which is considerably higher than state's average; area with limited economic development prospects as evidenced by prior and current development activities; funding would support business with potential to generate additional growth in area and creation of jobs as a result of spinoff businesses; funding needed to avert loss of the area's major source of employment, etc.).

- b) Project Implementation Readiness - The company must demonstrate project readiness consisting of commitments identifying loans and investments from all lenders and investors on letterhead, signed and dated; and a time schedule for immediate project initiation.

- c) Job Creation - The application must provide evidence of job creation and/or retention including written assurance from the company which identifies the number of jobs to be created/retained; identification of the types of jobs created/retained; evidence that jobs created/retained will generate additional wealth for the community (e.g., final goods or services produced are sold in markets outside Illinois or goods or services produced and sold locally substitute for those imported from outside the State) -- these types of jobs will receive some preference; and evidence that the project to be undertaken has the potential to create substantial employment (See subsection (a)(2)) in relation to the principal amount of the loan at generally a ratio of at least one job to each \$5,000 in project funds. A project with a lower higher ratio will be considered for funding if the application demonstrates severe need (e.g., distressed community with an unemployment rate which is considerably higher than the state's average; area with limited economic development projects as evidenced by prior and current development activities; funding would support business with potential to generate additional growth in area and creation of jobs as a result of spinoff businesses; funding needed to avert loss of the area's major source of employment, etc.).

- d) Financial Evaluation Component - The company's financial statements, including the annual balance sheets and profit and

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loss statements for the past three years, as well as the most recent ninety days, and a three year projected balance sheet and profit and loss statement, as well as a one year monthly cash flow statement. A comprehensive business plan or company annual reports may be submitted in lieu of the aforementioned material. This will be reviewed through a standard credit analysis which will determine the: liquidity and debt coverage for the project; ability of the company to manage debt; business trends; and projected earnings. This data will be compared to similar data for companies in the same industry using the 1988 (no later amendments or editions included) "Robert-Morris Associates RMA Annual Statement Studies" (published by Robert Morris Associates, P.O. Box 8500, S-1140, Philadelphia, PA 19178) (1985), or a comparable source if such industry is evaluated by this source. This standard credit analysis will determine the financial stability of the company in accordance with Section 10-5 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 590.92 Evaluation Process

The Department shall screen all applications to determine that all application documentation has been submitted in accordance with Section 590.25. Complete applications will be reviewed and evaluated by Department staff. Applicants will be notified of deficiencies in applications and given an opportunity to correct such deficiencies through resubmission of additional documentation (see Sections 590.25 and 590.30). This review and evaluation process will be completed within 3045 days of the Department's receipt of the a complete application. Department staff will conduct an evaluation of each application to assure compliance with the requirements specified in the Act. The evaluation will address the following technical criteria:

- a) Evidence of Need for Program Funds.
 - 1) It should be demonstrated, for example, that the firm has multi-state location options and that additional funds will be leveraged -- to cover up to 75 percent of total project costs. Types of allowable leverage financing are provided in Section 590.60 of this Part.
 - 2) The business project must create or retain at least 300 full-time equivalent jobs over a 24 month period. The Director may waive the requirement for 300 jobs to be created for a large company meeting all other program criteria, as specified in the Act and this Part, but due to extenuating circumstances, cannot create 300 jobs (e.g.,

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distressed community with unemployment rate which is considerably higher than state's average; area with limited economic development prospects as evidenced by prior and current development activities; funding would support business with potential to generate additional growth in area and creation of jobs as a result of spinoff businesses; funding needed to avert loss of the area's major source of employment, etc.).

- b) Project Implementation Readiness - The company must demonstrate project readiness consisting of commitments identifying loans and investments from all lenders and investors on letterhead, signed and dated; and a time schedule for immediate project initiation.
- c) Job Creation - The application must provide evidence of job creation including written assurance from the company which identifies the number of jobs to be created/retained; identification of the types of jobs created/retained; evidence that jobs created/retained will generate additional wealth for the community (e.g., final goods or services produced are sold in markets outside Illinois or goods or services produced and sold locally substitute for those imported from outside the State) -- these types of jobs will receive some preference; and evidence that the project to be undertaken has the potential to create substantial employment. A project with a lower higher ratio will be considered for funding if the application demonstrates severe need (e.g., distressed community with an unemployment rate which is considerably higher than the state's average; area with limited economic development projects as evidenced by prior and current development activities; funding would support business with potential to generate additional growth in area and creation of jobs as a result of spinoff businesses; funding needed to avert loss of the area's major source of employment, etc.).

- d) Financial Evaluation Component - The company's financial statements, including the annual balance sheets and profit and loss statements for the past three years and the most recent ninety days, a three year projected balance sheet and profit and loss statement, and a one year monthly cash flow statement, a comprehensive business plan or company annual reports may be submitted in lieu of the aforementioned material. These statements will be reviewed through a standard credit analysis which will determine the: liquidity and debt coverage for the project, ability of the company to manage debt, business trends, and projected earnings. This data will be compared to similar data for companies in the same industry using the 1988 (no later amendments or editions included) "Robert-Morris Associates RMA Annual Statement Studies" (published by Robert Morris Associates,

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P.O. Box 8500, S-1140, Philadelphia, PA 19178 (1987, ~~no later~~
~~amendments or editions included~~), or a comparable source if such
industry is evaluated by this source. This standard credit
analysis will determine the financial stability of the company in
accordance with Section 10-5 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Public Infrastructure Loan and Grant Program
- 2) Code Citation: 14 Ill. Adm. Code 610
- 3) Section Numbers:

610.20	<u>Proposed Action:</u>
610.25	Amendment
610.30	Amendment
610.40	Amendment
610.60	Amendment
- 4) Statutory Authority: Implementing and authorized by the Public Infrastructure Loan and Grant Program Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2708-1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: Section 610.20 has been revised to allow applications for funding to be accepted on an on-going basis until all funds have been exhausted. Additionally Sections 610.25 and 610.30 have been modified to allow comprehensive business plans or company annual reports in lieu of other detailed application documentation when such reports address the same requirements. In Section 610.30(b)(2) the reference to the "Robert Morris Associates Annual Statement Studies" has been updated to reflect the 1988 edition. Additionally, this subsection has been revised to allow the use of other sources, comparable to the "Robert Morris Associates Annual Statement Studies", in evaluating the information derived from the standard credit analysis. Section 610.40(a)(1) has been revised so project assessments will no longer be on a comparative basis. Section 610.60(a) now provides for a review of a local government's last year's audit, rather than the last two year audit, in determining repayment capacity. Section 610.60(h) has been updated to reference 47 Ill. Adm. Code 10 rather than the Administrative Review Law.
- 6) Will these proposed amendments replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? Yes, under Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1987, ch. 85, par. 2203).

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 4, 1990.
- B) Types of small businesses and small municipalities affected: None. No businesses, either large or small, will be directly impacted by this rulemaking. This program is targeted toward units of local government and may include small municipalities.
- C) Reporting, bookkeeping or other procedures required for compliance: All loan/grant recipients must submit the financial statements. The rule is being amended to allow optional financial information to make compliance easier.
- D) Types of professional skills necessary for compliance: Accounting staff of the units of local government should possess the necessary skills for compliance.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 610

ILLINOIS PUBLIC INFRASTRUCTURE LOAN AND GRANT PROGRAM

Section	Purpose
610.10	Application Cycle
610.20	Application Documentation
610.25	Evaluation Process
610.30	Selection for Funding
610.40	Funding Limitations
610.50	Administrative Requirements
610.60	

AUTHORITY: Implementing and authorized by the Public Infrastructure Loan and Grant Program Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2708-1 et seq.)

SOURCE: Emergency rule adopted at 9 Ill. Reg. 14362, effective September 6, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 3259, effective January 28, 1986; amended at 10 Ill. Reg. 19395, effective October 31, 1986; amended at 14 Ill. Reg. _____, effective _____.

Section 610.20 Application Cycle

The Department will supply interested local governments with an application package upon request. Applications under this Program will be accepted on an ongoing basis. Applications submitted by the 25th of each month will be reviewed. --Submissions after the 25th will be held for consideration during the next monthly review cycle--

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 610.25 Application Documentation

The application must include documentation for the business associated with the proposed project as follows:

- a) History of the Company - a brief history of the business and past employment.
- b) Market Information - information on the company's products or services and identification of existing and potential major customers and competitors.
- c) Projected Employment Information - the total number of jobs to be created or retained, including type of jobs, wages, and hiring

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schedule for job creation/retention.

- d) Corporate Historic Financial Statements - historical corporate financial statements for the past three years and interim financial statements dated no more than ninety days prior to application including:

- 1) Profit and Loss Statements;
- 2) Balance Sheets;
- 3) Cash Flow Statements; and
- 4) Disclosure of Contingent Liabilities.

- e) Projected Financial Statements - projected three-year profit and loss statements and balance sheets and a one year monthly cash flow projection.

- f) Company Management - a listing of those people that are responsible for the management of the company, their positions, and percentages of ownership. Listing of those individuals who are responsible for the management of the company, their positions and responsibilities, and resumes of key senior individuals at the company location.

- g) Personal Resumes - a resume for senior staff at the proposed project. Ownership - the company will provide a detailed statement of ownership which shall include a percentage of ownership. Such statements shall clearly identify any ownership interest which amounts to 20% or more, any ownership interest which is considered to be controlling the company, and/or any interest which is guaranteeing any financial or contractual activities of the company. For all such entities which meet any conditions of this subsection, a financial statement shall be provided.

- h) The Department shall waive the requirements of subsections (a), (b), (d), (e), (f) and (g) when:

- 1) The company has submitted a comprehensive business plan or company annual reports; and
- 2) The company is publicly owned and traded; and
- 3) The company's historic financial condition is deemed excellent, meeting industry standards in accordance with Section 610.30(b)(2).

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(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 610.30 Evaluation Process

The Department shall screen all applications to determine that all requirements of the application package have been addressed. Complete applications will be reviewed and evaluated by Department staff. Applicants will be notified of deficiencies in applications and given an opportunity to correct such deficiencies through resubmission of additional documentation. This review and evaluation process will be completed within 45 days of the Department's receipt of a complete application ~~monthly cut-off date for applications.~~ Department staff will conduct a technical and financial evaluation of each application.

- a) Technical Evaluation Component - Each application will be reviewed to assure compliance with technical program requirements as specified in the Public Infrastructure Loan and Grant Program Act (Article 8 of P.A. 84-109, effective July 25, 1985) (Act). The technical evaluation will address the following criteria:

- 1) Evidence of Need for Public Participation - The application must demonstrate the need for public funds in the manner set forth in Section 8-5 of the Act, including identification of the essential need for public infrastructure in order to secure the private sector development, expansion, or retention; evidence that the project cannot be financed solely from local revenue sources or cannot be financed at an interest rate and term which makes the project viable; and an indication of the relationship of the proposed public infrastructure improvement to a local capital improvements plan (if applicable) or a documented need for the improvement.

- 2) Project Implementation Readiness - The application must show that the Infrastructure Program is ready for implementation by providing a time schedule for the immediate project initiation; detailed engineering reports and cost estimates which demonstrate cost feasibility of the project; and a signed resolution of support from the local government.

- 3) Project Impact - The application must clearly demonstrate a positive project impact consisting of an increase in employment or the retention of jobs and evidence that jobs created/retained will generate additional wealth for the community (e.g., final goods or services produced are sold in markets outside Illinois or final goods or services produced and sold locally substitute for those imported from outside the State) -- some preference will be given to

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these types of jobs.

- b) Financial Evaluation Component - The Department will conduct a financial analysis of each application received. The financial evaluation will include an analysis of the local government and the company undertaking the business project.

1) Analysis of Local Government - The Department's local government financial analysis will review alternative funding sources available to and pursued by the applicant, such as general obligation or revenue bonds, federal grant programs, tax increment financing, or special service area tax proceeds and user-charges; a determination of the financial health of the governmental unit based on the most recent audit of governmental funds including current tax rates, outstanding debt structure, utility user charges (if applicable to the project); and the community's ability to pay a portion of the costs for the infrastructure improvement.

2) Analysis of the Business - The firm's financial statements, including the annual balance sheets and profit and loss statements, for the past three years, as well as the most recent ninety days and a three year projected balance sheet and profit and loss statement, as well as a one year monthly cash flow statement, A comprehensive business plan or company annual reports may be submitted in lieu of the aforementioned material. These statements will be reviewed through a standard credit analysis which will determine the: liquidity and debt coverage of the project; ability of the company to manage debt; business trends; and projected earnings. This data will be compared to similar data for companies in the same industry using the 1988 (no later amendments or editions included) "Robert-Morris Associates RMA Annual Statement Studies" published by Robert Morris Associates, P.O. Box 8500, S-1140, Philadelphia, PA 19178) (1985) or comparable source if such industry is evaluated by this source these sources. This standard credit analysis will determine the financial stability of the company in accordance with Section 8-5(g) of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 610.40 Selection for Funding

- a) For any application which meets criteria of Section 610.30, Department staff will then conduct a field visit evaluation to verify information in the application, leading to the final

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funding decision. The field visits will analyze application characteristics, which include:

- 1) a comparative an assessment of the projects in terms of job creation, in relation to the value of the loan/grant and types of jobs preferred as described in Section 610.30(a)(3);
- 2) a verification of submitted application information; and
- 3) past performance of the applicant under previous Departmental programs, if applicable (e.g., success in previous projects and the level of compliance with previous grant agreements).

b) Applications which best meet the objectives of the program and demonstrate the greatest potential for job creation will receive loan or grant funds, until all available funds are expended. The Department will provide program funds in the form of a grant only when it can be demonstrated that the locality's financial capability will not generate the necessary revenues to pay the debt service on the cost of the public improvement described in the application. Grants will also be authorized in those circumstances where the proposed Infrastructure project is necessary to encourage large out-of-state firms to locate in Illinois or to encourage existing large companies to undertake job expansion or retention projects.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 610.60 Administrative Requirements

- a) Loan Terms - Infrastructure project loans will be at a fixed, low or no interest rate for a term not to exceed 10 years. However, in extenuating circumstances (e.g., based on the infrastructure improvement's useful life and the local government's financial capacity to repay the loan) a longer term, up to twenty years, will be considered. The loan term and amortization schedule will be flexible, according to not only the life expectancy of the proposed infrastructure improvement, but also the repayment capacity (based upon a review of the local government's last two year's audit) of the local government. Installments shall be due and payable to the Department according to a negotiated amortization schedule. All payments shall be applied first to interest and then to principal.

b) Reporting - The Recipient (applicant receiving grant/loan) will provide, at least annually, information and reports required by the Department (e.g. reports on job creation/retention; financial

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statement of assets, liabilities, and net worth).

- c) Termination of Grant/Loans - Grants/loans shall be terminated for the following reasons:

1) Termination due to Loss of Funding - In the absence of state funding for a grant year, all grants/loans for that year will be terminated in full. In the event of a partial loss of state funding, the Department will make proportionate cuts to all Recipients. In the event the Department suffers such a loss of funding in full or part, the Department will give the Recipient written notice setting forth the effective date of full or partial termination, or if a change in funding is required setting forth the change in funding and changes in the approved budget.

- 2) Termination for Cause

A) If the Department determines that the Recipient has failed to comply with the terms and conditions of the grant/loan, the Department shall terminate the grant/loan in whole, or in part, at any time before the date of completion. Circumstances which will result in the termination of a grant/loan include, but are not necessarily limited to the following: consistent failure to submit required reports; failure to maintain required records; failure to protect inventory; misuse of equipment purchased with grant/loan funds; evidence of fraud and abuse; consistent failure to meet performance standards and failure to resolve points of the agreement (i.e., narrative, number to be served). These circumstances are explained in the grant/loan agreement.

B) The Department shall promptly notify the Recipient in writing of the determination to terminate, the reasons for such termination, and the effective date of the termination. Payments made to the Recipient or recoveries by the Department shall be made in accordance with legal rights and liabilities explained in the grant/loan agreement.

- 3) Termination by Agreement - The Department and the Recipient shall terminate the grant/loan in whole, or in part, when the Department and the Recipient agree that the continuation of the program objectives would not produce beneficial results commensurate with the future expenditures of funds. The Department and the Recipient

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shall agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. Recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Recipient for the Department's share of the noncancellable obligations, properly incurred by the Recipient prior to termination.

- d) Events of Default - The entire unpaid principal of the loan, and the interest then accrued thereon, shall become and be immediately due and payable upon the written demand of the Department, without any other notice or demand of any kind or any presentment of protest, if any one of the following events (hereafter an "event of default") shall occur and be continuing at the time of such demand, whether voluntarily or involuntarily, or without limitation, occurring or brought about by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rules or regulations of any administrative or governmental body, provided, however that such sum shall not be then payable if Recipient's payments have been deferred. The Department will make deferrals based upon case by case review of the Recipient's financial statements and projections (see Section 610.25(d) and (e)) to determine if the Recipient will be able to make payments at a future date.

- 1) Non-Payment of Loan - If the Recipient shall fail to make payment when due of any installment of principal on the loan, or interest accrued thereon and if the failure to make payment shall remain unremedied for fifteen (15) days.
- 2) Non-Payment of Other Indebtedness - If default shall be made in the payment when due of any installment of principal or of interest on any of the Recipient's other indebtedness (any creditor the Recipient owes) and if such default shall remain unremedied for (15) days.
- 3) Incorrect Representation or Warranty - If any representation or warranty contained in, or made in connection with the execution and delivery of, the loan agreement, or in any certificate furnished pursuant hereto, shall prove to have been incorrect.
- 4) Default in Covenants - If the Recipient shall default in the performance of any other term, covenant or agreement contained in the loan agreement, and such default shall continue unremedied for thirty (30) days after either:

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- A) it becomes known to an executive officer of the Recipient; or
- B) written notice thereof shall have been given to the Recipient by the Department.

5) Voluntary Insolvency - If the Recipient shall cease to pay its debts as they mature or shall voluntarily file a petition seeking reorganization of, or the appointment of a receiver, trustee, or liquidation of its assets or to effect a repayment plan with creditors, or shall be adjudicated bankrupt, or shall make a voluntary assignment for the benefit of creditors.

6) Involuntary Insolvency - If an involuntary petition shall be filed against the Recipient under any bankruptcy or insolvency law or seeking the reorganization of or the appointment of any receiver, trustee or liquidator for the Recipient, or the property of the Recipient, or a writ or warrant of attachment shall be issued against the property of the Recipient and such petition shall not be dismissed, or such writ or warrant of attachment shall not be released or bonded within thirty (30) days after filing or levy.

7) Judgments - If any final judgment for the payment of money that is not fully covered by liability insurance shall be rendered against the Recipient, and within thirty (30) days, shall not be discharged, or an appeal therefrom taken and execution thereon effectively stayed pending such appeal, and, if such judgment be affirmed on such appeal, the same shall not be discharged within thirty (30) days.

e) Notice of Default - The Recipient agrees to give written notice to the Department of any event, within 15 days of after the event, which constitutes an event of default as specified in Section 610.60(d).

f) Monitoring and Evaluation - Recipients must permit any agent authorized by the Department, upon presentation of credentials to, in accordance with the constitutional limitation on administrative searches, have full access to and the right to examine any documents, papers, and records of the Recipient involving transactions related to a grant/loan from the Department.

g) Audits

- 1) The Recipient shall be responsible for having an audit of all grant/loan records and such audit must be performed by

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an independent certified public accountant, certified and licensed by authority of the State of Illinois in accordance with the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500-5536). The audit must be conducted in accordance with generally accepted government auditing standards adopted by the AICPA (office located at 1211 Avenue of the Americas, New York, N.Y. 10036-8775) (1981-1989, with no later amendments or editions).

2) The Recipient may secure an independent audit of its grant/loan in the same manner as it secures its regular audits, provided it provides for maximum open and free competition. The audit should be conducted as part of the Recipient's normal annual audit or, when the ending period of the audit covers the expenditure of all loan funds, bi-annual audit.

3) The Recipient shall work cooperatively with the audit firm selected; actively work with both the audit firm and the Department to resolve any and all audit findings; and work cooperatively with the Department's staff in preparing for, conducting, and resolving audits.

4) Any Recipient receiving a grant will provide the Department with 6 3 copies of its annual audit which addresses Department grant(s). In instances where the grant period or term does not coincide with the Recipient's fiscal year, two fiscal audit reports shall be forwarded to the Department. Any Recipient receiving a loan will provide the Department with 3 copies of its audit which addresses funds expended under the Department's loan, within thirty days of its publication.

5) The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours of funds expended under Department grants/loans.

6) Any independent public accounting firm that provides consultant services to a Recipient is prohibited from conducting an audit of that Recipient for the period during which services were rendered.

h) Complaint Process - In the event of a Recipient complaint, the Department will follow the procedures outlined in the Administrative Review Law (Ill. Rev. Stat. 1985, ch. 110, pars. 3-101-et-seq.) 47 Ill. Adm. Code 10 (Review and Appeal Procedures).

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- i) Interest on Grant Funds - In accordance with Section 10 of the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1985/1988 Supp., ch. 127, par. 2310), all interest earned on funds held by the Recipient under the grant shall become part of the grant when earned. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department.
- j) Nondiscrimination - The Recipient shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1985/1987 and 1988 Supp., ch. 68, pars. 1-101 et seq.).
- k) Financial Management Standards - The Recipient's financial management system shall be structured under the Accounting Standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (June, 1984/September 19, 1987, no later amendments or editions included) to maintain control and accountability over grant/loan funds.

1) Maintenance and Insurance of Property

- 1) The Recipient shall at all times maintain the property provided as security for the loan in such condition and repair that the Department's security will be adequately protected.
- 2) The Recipient shall maintain, during the term of the loan, adequate (at least covering the amount of the loan) hazard (e.g., tornado, hail, acts of God) insurance policies, covering fire and extended coverage for all such other hazards and issued by an insurance company authorized to do business in the State of Illinois with loss payable clauses in favor of the Department.
- 3) The Recipient shall, if at any time during the life of the loan the Recipient's property is declared to be within a flood hazard area, purchase federal flood insurance if available. Such insurance shall be equal to the amount of the loan.
- 4) The Recipient shall maintain liability and worker's compensation insurance. The Recipient shall provide written notice to the Department of any public hearing or meeting before any administrative or other public agency which may, in any manner, affect the chattel, personal property or real estate securing the loan.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Uniform Fiscal and Administrative Standards for the Job Training Partnership Act
- 2) Code Citation: 56 Ill. Adm. Code 2630
- 3) Section Numbers: _____
2630.112
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 164 of the Act (P.L. 97-300, effective October 13, 1982, as amended by P.L. 97-404, effective December 31, 1982; P.L. 99-496, effective October 16, 1986; P.L. 99-570, effective October 27, 1986; and P.L. 99-570, effective October 27, 1986; and P.L. 100-418, effective August 23, 1988) and Section 46.41 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.41) and authorized by Section 46.40(b) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.40(b)).
- 5) A Complete Description of the Subjects and Issues Involved: Standards for selected items of cost, found in Section 2630.112(b) of the "Uniform Fiscal and Administrative Standards for the Job Training Partnership Act" rules, are currently deficient in the area of clarifying what constitutes grantee owned property (as opposed to grant owned property), and what constitutes ownership. Therefore the amendment serves to provide the necessary clarification. Additionally, some of our grantees and subgrantees also operate other federally funded programs, either directly from a federal department or from other divisions within this department. These other federally funded programs adhere to the Office of Management and Budget (OMB) Circular A-122: Cost Principles for Nonprofit Organizations, or OMB Circular A-87: Cost Principles for State and Local Governments. Since JTPA is a federal program, portions of the text contained in these two OMB Circulars are being incorporated into Section 2630.112(b) to make them consistent with the requirements of other federal programs which grantees may be administering. This will protect the department and the grantees from any possible questioned costs as a result of a federal audit. The revised standards for selected items of cost are now arranged alphabetically to assist the reader.
- 6) Will these proposed amendments replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? No.
- 9) Are there any proposed amendments pending on this Part? Yes.
Section Numbers: _____
2630.82
Proposed Action: Illinois Register Citation: April 13, 1990
Amendment

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2630.103 Repeal 14 Ill. Reg. 5310
April 13, 1990
14 Ill. Reg. 5310

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1987, ch. 85, par. 2203).

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 4, 1990.
- B) Types of small businesses and small municipalities affected: There will be no direct effect on small municipalities. These rules govern the activities of SDAs under the Job Training Partnership Act. Sixteen of these SDAs are not-for-profits and are therefore considered small businesses in accordance with the Illinois Administrative Procedure Act.
- C) Reporting, bookkeeping or other procedures required for compliance: All SDAs must comply with the standards for selected items of cost to ensure the federal government will allow their costs.
- D) Types of professional skills necessary for compliance: Current SDA staff should possess the necessary skills to comply with this rulemaking.

The full text of the Proposed Amendments begins on the next page:

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2630

UNIFORM FISCAL AND ADMINISTRATIVE STANDARDS FOR
THE JOB TRAINING PARTNERSHIP ACT

SUBPART A: INTRODUCTION

Definitions Section
2630.2

SUBPART B: ADMINISTRATIVE STANDARDS AND PROCEDURES

Section
2630.80 Program Income
2630.81 Insurance
2630.82 Procurement
2630.83 Property Management
2630.84 Management Systems, Reporting, and Recordkeeping
2630.85 Cash Management

SUBPART C: FISCAL STANDARDS AND PROCEDURES

Section
2630.100 Allowable Costs
2630.101 Classification of Costs
2630.102 Limitations on Certain Costs
2630.103 Matching Funds

SUBPART D: COST DETERMINATION

Section
2630.110 Principles for Determining Costs
2630.111 Guidelines for Cost Allocation Plans
2630.112 Standards for Selected Items of Cost
2630.113 Indirect Cost Proposals
2630.114 Suggested Bases for Cost Distribution

SUBPART E: AUDIT

Section
2630.120 Audit Requirements
2630.121 Oversight
2630.122 Sanctions
2630.123 Federal Cognizance

AUTHORITY: Implementing Section 46.41 of the Civil Administrative Code of

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Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.41) and the Job Training Partnership Act (P.L. 97-300, effective October 13, 1982, as amended by P.L. 97-404, effective December 31, 1982; P.L. 99-496, effective October 16, 1986; P.L. 99-570, effective October 27, 1986; and P.L. 100-418, effective August 23, 1988) and authorized by Section 46.40(b) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.40(b)).

SOURCE: Adopted at 8 Ill. Reg. 3616, effective March 12, 1984; amended at 8 Ill. Reg. 14307, effective August 2, 1984; amended at 8 Ill. Reg. 16422, effective August 31, 1984; amended at 8 Ill. Reg. 22515, effective November 5, 1984; amended at 9 Ill. Reg. 6159, effective April 24, 1985; amended at 9 Ill. Reg. 6692, effective April 25, 1985; amended at 9 Ill. Reg. 18475, effective November 18, 1985; amended at 9 Ill. Reg. 20669, effective December 16, 1985; amended at 10 Ill. Reg. 8083, effective May 6, 1986; amended at 10 Ill. Reg. 21069, effective December 5, 1986; amended at 11 Ill. Reg. 11682, effective June 29, 1987; amended at 12 Ill. Reg. 15961, effective September 26, 1988; amended at 14 Ill. Reg. _____, effective _____.

Section 2630.112 Standards for Selected Items of Cost

a) Purpose and applicability.

1) Objective. This section provides standards for determining the allowability of selected items of cost.

2) Application. These standards will apply irrespective of whether a particular item of cost is treated as a direct or indirect cost. Failure to mention a particular item of cost in these standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided in this section for similar or related items of cost.

b) Standards for selected items of cost.

1) Accounting. The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by service agencies which establish and maintain these systems. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriate and fund accounts by the Treasurer, Comptroller, or similar officials, is allowable to the extent that the program receives coverage under such services.

2) Advertising. Advertising media includes newspapers, magazines, radio and television programs, direct mail,

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trade paper, and the like. All such advertising costs disseminating program information are allowable.

3) Advisory Councils. Costs incurred by State and local advisory councils, boards, or committees expending effort on behalf of grant programs are allowable. Costs of like organizations are allowable when provided for in the State grants.

4) Audit services. The cost of audits necessary for the administration and management of functions related to grant programs is allowable. Costs of legislative branch audit and review activity of functions related to grant programs are allowable.

5) Automatic data processing. The cost of data processing services to grant programs is allowable. This cost includes lease of equipment or depreciation or use allowances on grantee-owned equipment. Prior approval for the lease, lease with option-to-purchase, or purchase of equipment is required and will be granted by the Department provided the cost is allowable in accordance with Section 2630.100(a).

6) Bad debts. Bad-debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.

7) Bid and proposal costs. These costs, also called pre-agreement costs, are allowable only with prior approval of the Department.

8) Bonding costs.

A) Costs-of -premiums -on -bonds -covering -employees -who handle -grantee -agency -funds -are -allowable: Bonding costs arise when the Department requires assurance against financial loss to itself or others by reason of the act or default of the organization. They arise also in instances where the organization requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

B) Costs of bonding required pursuant to the terms of a grant are allowable.

C) Costs of bonding required by the organization in the

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general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

- 6) Budgeting: ---costs---incurred---for---the---development; preparation; -presentation; -and -execution -of -budgets -by grantee-agency-or-central-budget-offices-are-allowable;
- 9) Building lease management. Costs for lease management, review of lease proposals, and related activities are allowable.
- 10) Building space and related facilities. The cost of space in privately or publicly owned buildings used for the direct or indirect benefit of the grant program is allowable. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy without authorization of the Department. Instances when costs for nonoccupied space will be authorized by the Department include, but are not limited to, renovation of a facility or flood damage to building space used for purposes under the grant.

- A) Rental cost. The rental cost of space in a privately-owned building is allowable.
- B) Maintenance and operation. The costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, not included in rental or other charges for space are allowable.
- C) Rearrangements and alterations. Cost incurred for rearrangement and alteration of facilities or those that increase the value or useful life of the facilities are allowable when approved by the Department.

- D) Subject to the limitations described in subsections (b)(10)(E) through (G), rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

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- E) Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization continued to own the property.

- F) Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between divisions of an organization; organizations under common control through common officers, directors, or members; and an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

- G) Rental costs under leases which create an material equity in the leased property are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed (e.g., depreciation or use allowances, maintenance, taxes, insurance but excluding interest expense and other unallowable costs). For this purpose, a material equity in the property exists if the lease is noncancellable or is cancelable only upon the occurrence of some remote contingency and has one or more of the following characteristics:

- i) The organization has the right to purchase the property for a price which at the beginning of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option);
- ii) Title to the property passes to the organization at some time during or after the lease period;
- iii) The term of the lease (initial term plus periods covered by bargain renewal options, if any) is equal to 75 per cent or more of the economic life of the leased property; i.e., the

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period the property is expected to be economically usable by one or more users. Interest --expenses --incorporated --into --such agreements--are-not-allowable.

- 11) Central Stores. The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

- 12) Chief executive expenses. The salaries and expenses of the Office of the Governor of the State of Illinois or the chief executive of a political subdivision are not allowable.

- 13) Commencement and convocation costs. Costs incurred for commencements and convocations are allocable to training agreements and are allowable.

- 14) Communications. Communication costs incurred for telephone calls or service, telegraph, teletype service, WATS, centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

- 15) Compensation for personal services.

A) General---Compensation-for-personal-services--includes all remuneration; paid-currently-or-accrued; -for services-rendered-during-the-period-of-performance under-the--grant;--including--but--not--necessarily limited--to--wages; --salaries; --and --supplementary compensation--and--benefits; --the--costs--of--such compensation--are-allowable-to-the-extent-that-the total-compensation-for-individual-employees:

i) is-reasonable-for-the-services-rendered--as defined-in-audit-procedures-referred-to-in Subpart-E);-and

ii) follows-an-appointment-made-in-accordance-with local-government-laws-and-rules.

B) Payroll:---Amounts--charged--to--grant--programs--for personal-services; regardless-of-whether-treated-as direct-or-indirect-costs; will-be-based-on-payrolls documented--and--approved--in--accordance--with--the accepted-practice-of-the-State-or-local-agency. Payrolls-must-be-supported-by-time-and-attendance-or equivalent-records-for-individual-employees.

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A) Definition. Compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the grant (except as otherwise provided in subsection (b)(15)(G)). It includes, but is not limited to, salaries, wages, director's and executive committee member's fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay differentials.

B) Allowability. Except as otherwise specifically provided in this subsection the costs of such compensation are allowable to the extent that:

i) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Department and non-departmental activities; and

ii) Charges to grants whether treated as direct or indirect costs are determined and supported as required in this subsection.

C) Reasonableness.

i) When the organization is predominantly engaged in activities other than those sponsored by the Department, compensation for employees on Department-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.

ii) When the organization is predominantly engaged in Department-sponsored activities and in cases where the kind of employees required for the Government activities are not found in the organization's other activities, compensation for employees on Department-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

D) Special considerations in determining allowability. Certain conditions require special consideration and possible limitations in determining costs under Grants where amounts or types of compensation appear

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unreasonable. Among such conditions are the following:

i) Compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

ii) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of Department grants to other activities of the organization or any change in the treatment of allowability of specific types of compensation due to changes in Department policy.

E) Unallowable costs. Costs which are unallowable under other subsections shall not be allowable under subsection (b)(15) solely on the basis that they constitute personal compensation.

F) Fringe benefits.

i) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each, and are provided pursuant to a leave system.

ii) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs (see subsection (b)(15)(G)), and the like, are allowable organization policies. Such benefits whether treated as indirect costs or as direct costs, shall be distributed to particular grants and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose

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salaries and wages are chargeable to such grants and other activities.

iii) Provisions for a reserve under a self-insurance program for unemployment compensation or workmen's compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability. Where an organization follows a consistent policy of expensing actual payments to or on behalf of, employees or former employees for unemployment compensation or workmen's compensation, such payments are allowable in the year of payment with the prior approval of the Department provided they are allocated to all activities of the organization.

iv) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the organization is named as beneficiary are unallowable.

G) Pension plan costs.

i) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided: such policies meet the test of reasonableness; the methods of cost allocation are not discriminatory; the cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accountants; the costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to

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normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

ii) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974 (P.L. 93-406) are allowable. Late payment charges on such premiums are unallowable.

iii) Excise taxes on accumulated funding deficiencies and other penalties imposed under the Employee Retirement Income Security Act are unallowable.

H) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.

I) Overtime, extra pay shift, and multishift premiums, are allowable pursuant to the grantee's personnel policies.

J) Severance pay. See subsection (b)(58).

K) Training and education costs. See subsection (b)(62).

L) Support of salaries and wages.

i) Charges to grants for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to grants must be supported by time sheets, time and attendance records or personnel activity reports as prescribed in subsection (b)(15)(L)(ii), except when a

substitute system has been approved in writing by the Department.

ii) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to grants. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by nonprofit organizations to satisfy these requirements must meet the following standards. The reports must reflect an after-the-fact determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to grants. Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization. The reports must be signed by the individual employee and by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports. The reports must be prepared at least monthly and must coincide with one or more pay periods.

iii) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subsections (b)(15)(L)(i) and (ii), must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (29 CFR 516). For this purpose,

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the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under the Fair Labor Standards Act.

- iv) Salaries and wages of employees used in meeting cost sharing or matching requirements on grants must be supported in the same manner as salaries and wages claimed for reimbursement from the Department.

16) Contingency provisions. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves; pension funds; and reserves for normal severance pay.

17) Contributions. Contributions and donations by the organization to others are unallowable.

18) Depreciation and use allowances.

A) Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. A combination of the two methods may not be used in connection with a single class of fixed assets.

B) The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, or where a recoverable disparity between the actual cost and the current fair market value exists, the current fair market value may be used in this computation. Fair market value can be determined by the grantee if supported by solicited bids for existing similar items. The computation will exclude the costs or any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government or State of Illinois through charges to grant programs or otherwise irrespective of where title was originally vested or where it presently resides. Additionally, the computation will also exclude the cost of land. Depreciation or a use allowance on facilities in a sustained idle or excess state is not allowable, except when specifically authorized by the awarding-agency Department.

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C) Where the depreciation method is followed, authentic property records must be maintained, and any method of calculating depreciation accepted under the Generally Accepted Accounting Principles of the American Institute of Certified Public Accountants (1983) shall be used in compiling depreciation. The method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

D) In lieu of depreciation, a use allowance for buildings and capital improvements shall be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized or building cost) will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment. (Note: Rates specified are effective as of start of the grantee's next fiscal year {5/86}.)

E) No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges (i.e., not exceeding six and two-thirds percent of acquisition cost for equipment, and not exceeding two percent of cost for buildings) may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for its original purpose. (Note: Rates specified are effective as of the start of the grantee's next fiscal year {5/86}.)

19) Disbursing services. The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records or accountability and reconciliation of such records with related cash accounts.

20) Donations

A) Services received.

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i) Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost.

ii) The value of donated services utilized in the performance of a direct cost activity shall be considered in the determination of the organization's indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following circumstances exist: the aggregate value of the services is material; the services are supported by 15% or more of the indirect costs incurred by the organization; and the direct cost activity is not pursued primarily for the benefit of the grant.

iii) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the Department shall negotiate an appropriate allocation of indirect cost to the services.

iv) Where donated services directly benefit a project supported by a grant, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the grant or used to meet cost sharing or matching requirements.

v) The value of the donated services may be used to meet cost sharing or matching requirements. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

vi) Fair market value of donated services shall be computed as follows: Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities for the organization. In cases where the kinds of skills involved are not found in the other activities of the organization, the rates used shall be consistent with those paid for similar

work in the labor market in which the organization competes for such skills. When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs) provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, fair market value shall be computed in accordance with this subsection.

B) Goods and space.

i) Donated goods; i.e., expendable personal property/supplies, and donated use of space may be furnished to an organization. The value of the goods and space is not reimbursable either as a direct or indirect cost.

ii) The value of the donations may be used to meet cost sharing or matching share requirements. The value of the donations shall be determined in accordance with subsection (b)(20)(A)(iii). Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

13) Employee-fringe-benefits:

A) Employee-benefits-in-the-form-of-regular-compensation paid--to--employees--during--periods--of--authorized absences--from-the-job--such-as-for-annual-leave--sick leave--court-leave--military-leave--and-the-like--are allowable-if-they-are:

i) provided-pursuant-to-a-leave-system;-and
ii) the-cost-thereof-is-equitably-allocated-to-all related-activities;-including-grant-programs;

B) Employee---benefits---in---the---form---of---employer contribution-or-expenses-for-FICA;-employee's-life and-health-insurance-plans;-unemployment-insurance coverage;-workers'-compensation-insurance;-pension plans;-severance-pay;-and-the-like;-provided-that such-benefits-are-granted-under-plans-and-distributed

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equitable-to-grant-programs-and-to-other-activities-

21) Employee morale, health, and welfare costs. The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employee's counseling services, employee information publications, and any related expenses incurred in accordance with local policy, are allowable. Income generated from any of these activities will be offset against expenses.

22) Entertainment costs. Costs of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable.

23) Equipment and other capital expenditures.

A) As used in this subsection, the following terms have the meanings set forth below:

i) "Equipment" means an article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. An organization may use its own definition provided that it at least includes all nonexpendable tangible personal property as defined herein.

ii) "Acquisition cost" means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective intramit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

iii) "Special purpose equipment" means equipment which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

iv) "General purpose equipment" means equipment which is usable only for other than research,

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medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

B) Allowability

i) Capital expenditures for general purpose equipment are unallowable as a direct cost except with the prior approval of the Department.

ii) Capital expenditures for special purpose equipment are unallowable as direct costs except with the prior approval of the Department.

C) Capital expenditures for land or buildings are unallowable as a direct cost except with the prior approval of the Department.

D) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the Department.

E) Equipment and other capital expenditures are unallowable as indirect costs. However, see subsection (b)(18) for allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see subsections (b)(10)(A) and (D) through (G) for allowability of rental costs for land, buildings, and equipment.

24) Exhibits. Cost of exhibits relating to grantee services are allowable to the extent that grant program information is incorporated.

25) Fines and penalties. Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of a grant or instructions in writing from the Department.

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26) Idle facilities and idle capacity.

A) As used in this subsection the following terms have the meanings set forth below:

i) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively or any other tangible capital asset, wherever located, and whether owned or leased by the organization.

ii) "Idle facilities" means completely unused facilities that are excess to the organization's current needs.

iii) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 per cent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. A multishift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

iv) "Costs of idle facilities or idle capacity" means costs such as maintenance repair, housing rent, and other related costs: e.g., property taxes, insurance, and depreciation or use allowances.

B) The costs of idle facilities are unallowable except to the extent that:

i) They are necessary to meet fluctuations in workload or

ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of

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Idle facilities are allowable for a period of time, not to exceed two months, depending upon the initiative taken to use, lease or dispose of such facilities.

C) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuation of usage or indirect cost rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be idle facilities.

27) Independent research and development. Allowable only with prior written approval of the Department.

28) Insurance and indemnification.

A) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal or State Government property is allowable:

B) Contributions to a reserve for a self-insurance program are allowable to the extent that the type of coverage and the rates and premiums would have been allowed had insurance been purchased to cover the risks:

C) Actual losses which could have been covered by allowable insurance (through an approved self-insurance program approved by the appropriate legislative body or otherwise) are allowable: Costs incurred because of losses not covered under nominal deductible insurance coverage and minor losses (under \$100 in cost) not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur, are allowable:

A) Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of a grant and any other insurance which the organization maintains in connection with the general conduct of its operations. This subsection does not apply to insurance which represents fringe benefits

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for employees.

- i) Costs of insurance required or approved, and maintained, pursuant to a grant are allowable.
- ii) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations. Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances. Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees. Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to Department property are allowable only to the extent that the organization is liable for such loss or damage. Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonable estimated self-insured liabilities, which do not become payable for more than one year after the provision is made shall not exceed the present value of the liability. Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see subsection (b)(15)). The cost of such insurance when the organization is identified as the beneficiary is allowable.
- iii) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are allowable unless expressly provided for in a grant, except: costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable and minor losses not covered by insurance, such as spoilage and breakage, which occur in the ordinary course of operations, are allowable.

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- B) Indemnification includes securing the organization against liabilities to third persons and any loss or damage, not compensated by insurance or otherwise. The Department is obligated to indemnify the organization only to the extent expressly provided in a grant.
- 29) Interest and other financial costs. Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are not allowable.
- 30) Labor relations costs. Costs incurred in maintaining satisfactory relations between the institution and its employer, including costs of labor management committees, employees' publications, and other related activities, are allowable.
- 31) Legal expenses. The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer or staff of a State or local government, grantee, or subgrantee solely for the purpose of discharging general responsibilities as a legal officer are allowable. Legal expenses for the prosecution of claims against the Federal Government are allowable.
- 32) Legislative expenses. Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisor, city councils, school boards, etc., whether incurred for purpose of legislation or executive direction, are not allowable.
- 33) Losses on other awards. Any excess of costs over income on any award is allowable as a cost of any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any underrecoveries through negotiation of lump sums for, or ceilings on, indirect costs.
- 34) Maintenance and Repair. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.
- 35) Management studies. The cost of management studies intended to improve the effectiveness and efficiency of grant management for ongoing programs is allowable. Cost

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of studies performed by agencies, committees, and other organizations other than the grantee department or outside consultations are allowable.

- 36) Materials and supplies. The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores of stockrooms should be charged at cost using any method of pricing accepted under the Generally Accepted Accounting Principles of the American Institute of Certified Public Accountants (1983). Incoming transportation charges are a part of material cost.

37) Meetings, conferences.

- A) Costs associated with the conduct of meetings, and conferences, and include the cost of renting facilities, meals, speakers' fees, and the like.

- B) To the extent that these costs are identifiable with a particular cost objective, they should be charged to that objective. These costs are allowable provided that they meet the general tests of allowability.

- C) Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

- 38) Memberships, subscriptions and professional activities. The cost of membership in civic, business, technical, professional, and similar organizations is allowable. The cost of books, and subscriptions to civic, business, technical, professional, and like organization periodicals is allowable. Costs of attendance at meetings and conferences are allowable.

- 39) Motor pools. The cost of a service organization which provides vehicles to user grantee agencies and/or provides vehicle maintenance, inspection and repair services are allowable.

- 40) On-the-job training. On-the-job training (OJT) costs include salaries, wages, fringe benefits, and related costs of individuals placed in OJT programs. JTPA reimbursement limitations for costs are specified in Section 141(g) of

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the Act. Both grantee and employer support of such individuals are allowable during the period of OJT status only. Once an individual leaves OJT status, related costs are unallowable, except where grantee follow-up costs are incurred.

- 41) Organization costs. Expenditures, such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the Department.

- 42) Payroll preparation. The cost of preparing payrolls and maintaining necessary related wage records is allowable.

- 43) Personnel administration. Costs for the recruitment examination, certification, classification, training, establishment of pay standards, and related activities for grant programs are allowable.

- 44) Plant security costs. Necessary expenses incurred to comply with Government security requirements or for facilities protection, including wages, uniforms and equipment or personnel are allowable.

- 45) Preaward Preagreement costs. Costs incurred prior to the effective date of the grant or contract are allowable. Preaward costs are those incurred prior to the effective date of a grant directly pursuant to the negotiation and in anticipation of the grant where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the effective date of a grant and only with the written approval of the Department.

- 46) Printing and reproduction. Costs for printing and reproduction services including, but not limited to forms, reports, manuals, and informational literature, are allowable. Publication costs of reports or other media relating wholly or in part to grant program accomplishments or results are allowable.

- 47) Procurement services. The cost of procurement services, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing, or displaying of goods, facilities and services

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for grant programs, is allowable.

- 48) Professional services costs. Cost-of-professional-services (i.e., as defined by the grantee)-rendered-by-individuals or organizations-not-a-part-of-the-grantee-department-is allowable.

A) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the organization, are allowable, subject to subsections (b)(48)(B),(C) and (D) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Department.

B) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

- i) The nature and scope of the service rendered in relation to the service required.
- ii) The necessity of contracting for the service, considering the organization's capability in the particular area.
- iii) The past pattern of such costs, particularly in the years prior to Department grants.
- iv) The impact of Department grants on the organization's business (i.e., what new problems have arisen).
- v) Whether the proportion of Department work to the organization's total business is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Department grants and contracts.
- vi) Whether the service can be performed more economically by direct employment rather than contracting.
- vii) The qualifications of the individual or concern rendering the service and the customary fees

charged, especially on non-Department grants.

- viii) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

- C) In addition to the factors in subsection (b)(48)(B), retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.
- D) Cost of legal, accounting, and consulting services, and related costs incurred in connection with defense of antitrust suits, and the prosecution of claims against the Department, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, organization and reorganization, are unallowable unless provided for in the grant.

- 49) Profits and losses on disposition of depreciable property or other capital assets.

A) Gains and losses on sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to cost grouping(s) in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

B) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions.

- i) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under subsection (b)(18).
- ii) The property is given in exchange as part of purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.
- iii) A loss results from the failure to maintain

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permissible insurance, except as otherwise provided in subsection (b)(28)(A)(iii).

iv) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with subsection (b)(18).

v) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

C) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection (b)(49)(A) shall be excluded in computing grant costs.

50) Program income. Program income constitutes revenue generated by the grantee agency as a direct result of grant program activities. Such income shall be either returned to the State or retained by the grantee to enable further program expenditures. The State-awarding-agency Department will instruct each grantee on which method shall apply either in the grant agreement or in subsequent amendments.

51) Proposal costs. Costs of preparing proposals on potential Federal and/or State grants are allowable.

52) Public information service costs. Public information service costs are allowable and include the cost associated with pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

A) inform or instruct individuals, groups, or the general public;

B) interest individuals or groups in participating in a service program of the organization;

C) disseminate the results of sponsored and nonsponsored activities.

53) Rearrangement and alteration costs. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the Department.

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54) Reconversion costs. Costs incurred in the restoration or rehabilitation of the organization's facilities to approximately the same condition existing immediately prior to commencement of Department grants, fair wear and tear excepted, are allowable, with the prior approval of the Department.

55) Recruiting costs. The following recruiting costs are allowable: cost of "help wanted" advertising, operating costs of an employment office, costs of operating an educational testing program, travel expenses including food and lodging of employees while engaged in recruiting personnel are allowable.

56) Royalties and other costs for use of patents and copyrights.

A) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the grant are allowable with prior approval of the Department unless:

i) The Department has a license or the right to free use of the patent or copyright.

ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

iii) The patent or copyright is considered to be unenforceable.

iv) The patent or copyright is expired.

B) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining; e.g.:

i) Royalties paid to persons, including corporations, affiliated with the organization.

ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant would be made.

iii) Royalties paid under an agreement entered into

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after a grant is made to an organization.

- C) In any case involving a patent or copyright formerly owned by the organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the organization retained title thereto.

- 57) Severance pay. Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by law, or by the organization's internal policy.

- 58) Specialized service facilities.

- A) The costs of services provided by highly complex or specialized facilities operated by the organization, such as electronic computers, are allowable provided the charges for the services meet the conditions of either subsections (b)(58)(B) or (C) and, in addition, take into account any items of income or grant financing that qualify as applicable credits.

- B) The costs of such services, when material, must be charged directly to applicable grants based on actual usage of the services on the basis of a schedule of rates or established methodology that

- i) does not discriminate against grant supported activities of the organization, including usage by the organization for internal purpose, and

- ii) is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all indirect costs. Advance agreements are particularly important in this situation.

- C) Where the costs incurred for a service are not material, they may be allocated as indirect costs.

- 59) Taxes. Taxes of payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

- A) In general, taxes which the organization is required to pay and which are paid or accrued in accordance

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with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for

- i) taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Government and in the latter case when the Department makes available the necessary exemption certificates.

- ii) special assessments on land which represent capital improvements, and

- iii) federal income taxes.

- B) Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as grant costs, will be credited either as a cost reduction to cash refund, as appropriate, to the Department.

60)

Termination costs. Termination of grants generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the grant not been terminated. All such costs shall be negotiated with the Department on a case by case basis, including any costs after termination.

61)

Training and education costs. The cost of in-service training, customarily provided for employee development, which directly or indirectly benefits grant programs is allowable. Out-of-service training involving periods of time greater than one month is allowable. Costs incurred for the specific purpose of attaining a degree are unallowable.

- A) Costs of preparation and maintenance of a program of instruction including but not limited to on-the-job classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding any additional compensation, or any overtime compensation to trainees which might arise therefrom), and

- i) salaries of the director of training and staff when the training program is conducted by the

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organization; or

- ii) tuition and fees when the training is in an institution not operated by the organization, are allowable.

B) Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working and are limited to:

- i) Training materials.
- ii) Textbooks.
- iii) Fees charged by the educational institution.
- iv) Tuition charged by the educational institutional, or in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.

v) Salaries and related costs of instructors who are employees of the organization.

vi) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 158 hours per year and only to the extent that circumstances do not permit the operation of classroom or attendance at classes after regular working hours; otherwise such compensation is allowable.

C) Costs of attendance of up to 4 weeks per employee per year at specialized program specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees' salaries, and travel. Costs allowable under this subsection do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent

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set forth in subsection (b)(61)(B).

D) Maintenance expense, and normal depreciation or rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in subsections (b)(12), (18), and (29).

E) Contributions or donations to educational or training institutions, including the donation of facilities or other properties, and scholarships or fellowships, are unallowable.

F) Training and education costs in excess of those otherwise allowable under subsections (b)(61)(B) and (C) may be allowed with prior approval of the Department. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working.

G) Transportation. Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

H) Travel costs.

A) Travel costs are allowable for the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incidents to grant programs of the organization. Travel costs are allowable subject to subsections (b)(63)(B) through (E), when they are directly attributable to specific work under an award or are incurred in the normal course of administration of the organization.

B) Such costs shall may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip; and results in charges consistent with those normally allowed by the organization in its regular operations in like circumstances in non-State supported activities of the subgrantee.

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C) The difference in cost between first-class air accommodations and less than first-class air accommodations is allowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would

- i) require circuitous routing,
- ii) require travel during unreasonable hours,
- iii) greatly increase the duration of the flight,
- iv) result in additional costs which would offset the transportation savings, or
- v) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

D) Necessary and reasonable costs of personnel movements of a special or mass nature are allowable, subject to allocation on the basis of work or time period benefited when appropriate. Advance agreements are particularly important.

E) Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the Department. Each separate foreign trip must be approved. For purposes of this provision, foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for an organization located in foreign countries, the term "foreign travel" means travel outside that country.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Illinois Professional Engineering Act

2) Code Citation: 68 Ill. Adm. Code 1380

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Section Numbers:</u>	<u>Proposed Action:</u>
1380.210	Amending	1380.280	Amending
1380.220	Amending	1380.285	Adding
1380.230	Amending	1380.290	Amending
1380.240	Amending	1380.300	Amending
1380.250	Amending	1380.310	Amending
1380.260	Amending	1380.320	Amending
1380.270	Amending	Appendix A	Amending

4) Statutory Authority: The Professional Engineering Practice Act of 1989 (Public Act 86-667, effective January 1, 1990).

5) A Complete Description of the Subjects and Issues Involved:

This rulemaking implements the rewrite of The Professional Engineering Practice Act of 1989.

Various technical, typographical and format changes have been made.

"Engineer-in-Training" has been changed to "Engineer Intern" throughout.

"Bachelor of Science degree" has been changed to "baccalaureate degree" throughout.

The terms certificate of registration, registrant, and registration have been changed to license, licensure, and licensee throughout.

This rulemaking modifies the standards referenced in Section 1380.210 for approved engineering programs with respect to faculty, curriculum, and facilities. Also, subsection (f) has been added which defines an approved graduate engineering program as it pertains to Section 12(c)(1) of the Act.

Section 1380.220, pertaining to the definition of a degree in Basic Engineering or Related Science has been modified. A requirement of 15 hours in humanities or social science has been added. Applicants are not allowed to make up more than 15 hours in mathematics and basic science. Also, an applicant making up course-work to satisfy the requirements of a degree in Basic Engineering or Related Science shall do so in an approved program.

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All examination filing deadlines are December 15th for the Spring examination and June 15th for the Fall examination.

Applicants for enrollment as an Engineer-Intern or for licensure as a Professional Engineer by examination, in part, are required to have the experience completed prior to applying to the Department and shall have the experience verified by the applicant's supervisor on forms provided by the Department and shall submit a completed work history form.

An application for licensure as a Professional Engineer by examination who is enrolled as an Engineer-Intern and is claiming credit for participation in a cooperative program shall provide certification of such participation.

An applicant for licensure as a Professional Engineer by examination who is not enrolled as a Engineer-Intern and who is seeking a waiver of the fundamentals of engineering examination pursuant to Section 12(c) of the Act shall have successfully completed coursework set forth in Section 1380.250 (B)(2)(E).

As set forth in Section 1380.260, the examination administered by the Department shall be provided by the National Council of Examiners for Engineering and Surveying (NCEES).

If an application for restoration of a license is made within 2 years of discharge from military service, the applicant shall not be required to pay a restoration fee or any lapsed renewal fees.

Section 1380.280, pertaining to endorsement, has been modified in part to require a work history on forms provided by the Department. Also, subsection (a)(8) has been added to clarify experience requirements.

Section 1380.285 has been added and pertains to inactive status.

Section 1380.290, pertaining to Corporations, has been modified to include Partnerships and sets forth additional requirements for a license to practice professional engineering as a corporation or partnership.

Section 1380.310, pertaining to renewals, has been modified by adding a renewal period for corporations and partnerships. Also, it states that practicing or offering to practice on a non-renewed license is unlicensed activity and shall be grounds for discipline.

New subsection (e) of Appendix A pertaining to Endorsement allows applicants originally licensed in New York or Pennsylvania prior to

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January 1, 1965, to have their 12 hour examination accepted for endorsement based on prior agreement.

6) Will these proposed amendments replace an emergency Rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed Rules pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable):

There is no statement of statewide policy objective.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested Persons may submit written comments and views to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 4, 1990

B) Types of small businesses affected: Businesses that provide engineering services

C) Reporting, bookkeeping or other procedures required for compliance:

Corporations and partnerships licensed to practice professional engineering shall be required to notify the Department within 30 days of any changes in the membership of the board of directors or the general partners, or the licensure status of any of the general partners or any of the licensed professional engineering members of the board of directors. In addition, each corporation or partnership shall submit with the renewal application, on forms provided by the

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Department, a listing of all employees of the entity who hold current licensure in Illinois.

D) Types of professional skills necessary for compliance:

Engineering skills are necessary for licensure.

The full text of the Proposed amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1380

ILLINOIS THE PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

Section

1380.210	Approved Engineering Program
1380.220	Definition of Degree in Basic Engineering or Related Science
1380.230	Approved Experience
1380.240	Application for Enrollment as an Engineer Intern in-training
	4511 by Examination
1380.250	Application for <u>Licensure</u> Registration as a Professional Engineer
	by Examination
1380.260	Examination
1380.270	Restoration
1380.280	Endorsement
1380.285	Inactive Status
1380.290	Corporations and Partnerships
1380.300	Standards of Professional Conduct
1380.310	Renewals
1380.320	Granting Variances
Appendix A	Significant Dates for the Administration of Section 19 9411 of the Act - Endorsement

AUTHORITY: Implementing The Professional Engineering Practice Act of 1989 (Public Act 86-667, effective January 1, 1990) and authorized by Section 60(7) of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127 par. 60(7)).

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Professional Engineering Act, effective March 10, 1976; codified at 5 Ill. Reg. 11055; 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; repealed at 9 Ill. Reg. 10038, effective June 18, 1985; new Part adopted at 9 Ill. Reg. 10040, effective June 18, 1985; amended at 10 Ill. Reg. 19507, effective November 5, 1986; amended at 11 Ill. Reg. 8767, effective April 20, 1987; recodified from Chapter I, 68 Ill. Adm. Code 380 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1380 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2942; amended at 14 Ill. Reg. _____, effective _____.

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Section 1380.210 Approved Engineering Program

a) The Department of Professional Regulation shall, upon the recommendation of the State Board of Professional Engineers (the "Board") Professional Engineering Examining Committee (the Committee), approve an engineering program as reputable and in good standing if it meets the following minimum criteria:

1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate the appropriate degree in engineering.

2) Faculty.

A) Has a faculty which is comprised of a sufficient number of full-time or full-time equivalent instructors to make certain that the educational obligations to the student are fulfilled. A program at the basic level shall have no fewer than three full-time faculty members whose primary commitment is to that program. If an institution relies on part-time faculty members, it shall demonstrate that, in addition to the commitment of at least 3 full-time equivalent faculty members, effective mechanisms are in place to provide adequate levels of student advising and faculty interaction, and faculty control over the curriculum. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from reputable professional colleges or institutions.

B) The faculty shall have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions. Other evidence of faculty capability includes non-academic engineering experience, experience in teaching, ability to communicate effectively, participation in professional, scientific and other learned societies, licensure as a professional engineer and an interest in students' curricular activities. The faculty must be given sufficient time for research and professional development.

C) Teaching loads shall allow time for research and professional development activities. Stimulation of students' minds requires faculty involvement in scientific and technological development and in instructional innovation.

3) Curriculum.

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3 A) Has a curriculum of at least 4 academic years leading to the awarding of the baccalaureate degree, which provides integration of the educational experience with the ability to apply the knowledge gained to the identification and solution of practical problems directed toward the development of the ability to apply knowledge to the identification and solution of practical problems.

A) Basic science must include not only Physics and Chemistry, but also subjects from the areas of life and earth sciences.

B) Engineering sciences and additional sciences must apply the fundamentals acquired from the study of mathematics and basic sciences and carry that knowledge further toward creative application.

C) Engineering design requirements must be established in recognition of the need to orient the student toward the solution of the engineering problems of society.

D) Appropriate laboratory experience, as determined by the individual institution, should be included in the program of each student.

E B) Curriculum. The overall curriculum shall must include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall must include at least the following subjects:

Mathematics (beyond trigonometry) - 15-18 hours.

Basic Sciences (Physics/Chemistry) - 15-18 hours.

Engineering Sciences - 30-36 hours.

Engineering Design - 15-18 hours.

Humanities/Social Sciences - 15-18 hours.

C) Mathematics shall be beyond trigonometry, and include differential and integral calculus, and differential equations at the baccalaureate level. Mathematics may also include, but not be limited to, the study of probability, statistics, numerical analysis, and advanced calculus. Courses in computer usage and/or programming may not be used to satisfy the mathematics requirement.

D) Basic sciences shall include basic physics and chemistry, and may also include life sciences, earth sciences, and/or

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advanced physics and chemistry, as appropriate to the engineering discipline being studied.

E) Engineering sciences have their roots in mathematics and basic sciences but carry the knowledge toward creative application. Such subjects include, but are not limited to, mechanics, thermodynamics, electric and electronic circuits, material science, and other subjects depending upon the engineering discipline.

F) Engineering design involves the conversion of resources to predetermined objectives. Course requirements shall include the establishment of objectives and criteria, synthesis, analysis, construction, testing and evaluation which develop student creativity through open-ended problems and consideration of alternative solutions. The inclusion of realistic constraints, such as economic factors, safety, aesthetics, ethics, and social impact is appropriate. Examples of subjects in these areas include design of circuits, machines, power networks, process equipment and systems, and water treatment.

G) Humanities and social sciences are, respectively, the branches of knowledge that concern man and his culture, and that concern individual relationships in and to society. Examples of subjects in these areas are philosophy, history, literature, fine arts, religion, sociology, psychology, political science, economics, and foreign languages (other than a student's native language). Non-traditional courses might include social responsibility and professional ethics. Subjects such as accounting and management may be acceptable engineering electives, but do not satisfy the objectives of this area.

H) Laboratory experience is essential to an engineering education at both theoretical and practical levels.

I) Computer-based experience shall be included in the program of each student. The program shall include technical computations, problem solving, data acquisition and usage, process control, and computer-assisted design. The student shall have access to computational facilities in order to integrate these techniques into the program.

J) The program shall require that the student demonstrate competency in both written and oral communication.

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K) An understanding of ethical, social, economic, and safety considerations shall be included in the program, preferably by integration into the entire curriculum.

L) For those institutions that elect to prepare a student to enter the profession at the advanced level, the curriculum shall satisfy the criteria set forth in this Section at the basic level, and shall include at least one year of additional study. That year shall include at least 2/3 of a year of advanced mathematics, basic sciences, engineering sciences, and engineering design. Of this component, at least 1/3 of a year shall be comprised of engineering design. The program shall be designed toward a meaningful individual course of study, and include thesis, research, and/or special projects.

4) Has an extensive graduate program with an emphasis on research and special projects, which allows for interaction with the undergraduate population.

5 4) Facilities.

A) The laboratory facilities shall must reflect the requirements of the offered educational program. The laboratory should provide for individual project work by the students and the faculty. The facilities shall must be equipped in the judgment of the institution, with instruments and scientific equipment of a kind and quality to ensure the effective functioning of the laboratory.

B) The libraries in support of the engineering program shall be both technical and nontechnical, to include books, journals, and other reference material for collateral reading in connection with the instructional and research programs and professional work. The library collection shall reflect the existence of an active acquisition policy; this policy shall include specific acquisitions on the request and recommendation of the faculty of the engineering program. There shall be computer-accessible information centers and inter-library loan services for both books and journals. The library collections, whether centralized or decentralized, shall be readily available for use with the assistance of a trained library staff or through an open-stack arrangement, or both. The library must contain sufficient technical and nontechnical books in the judgment of the institution for the educational program and for the number of faculty and students. The collection should go well beyond the minimum

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~~required collection and should be readily available for use by the students and faculty.~~

- C) There shall be computer facilities accessible to the engineering students and faculty.

- 6) 5) The institution shall maintain permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

- b) In determining whether a program should be approved, the Department shall take into consideration but not be bound by accreditation by the Accreditation Board for Engineering and Technology or by the Canadian Engineering Accrediting Board.

- c) The Department, upon the recommendation of the Board Professional Engineering-Examining-Committee, has determined that all engineering programs accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology and the Canadian Engineering Accrediting Board as of January 1, 1982, meet the minimum criteria set forth in subsection (a), above, for an approved engineering program and are, therefore, approved.

- d) ~~Procedures for Withdrawal of Program Approval.~~

- 1) The following are grounds for withdrawal of approval disapproval of an engineering program or a program leading to a degree in basic engineering.

- A) Non-compliance with ~~Violations~~ of any provisions of the Illinois Professional Engineering Practice Act of 1989 (Public Act 86-667, effective January 1, 1990) (the "Act");

- B) ~~Non-compliance with Violations~~ of any provision of this Part;

- C) Fraud or dishonesty in furnishing documentation for evaluation of the program; or

- D) Failure to continue to meet the criteria of an approved program as set out in this Section.

- 2) If the Board Committee has reason to believe there has been any fraud or dishonesty in the furnishing of any documentation for the evaluation of a program on the part of any licensee, it shall refer such matter to appropriate Department personnel for any disciplinary action which might be appropriate under the Act.

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- 3) A program whose approval is being reconsidered by the Department shall be given 15 days written notice prior to any recommendation by the Board Committee and may either submit written comments or request a hearing before the Board Committee.

- e) Evaluation of Newly Submitted Programs.

- 1) An educational institution with ~~applicant~~ from a program that has not been evaluated will cause to be forwarded to the Department documentation concerning the criteria in this Section.

- 2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever is later, the Board Committee will evaluate the program based on all documentation received from the school and any additional information the Department has received which will enable the Board Committee to evaluate the program based on the criteria specified in this Section.

- f) For purposes of Section 12(c)(1) of the Act, an approved graduate engineering program shall:

- 1) Grant a Doctor of Philosophy or Doctor of Science degree;

- 2) Be in a curriculum from an institution with an engineering program which has at least one curriculum for a baccalaureate degree that is approved in accordance with Section 1380.210(a) of this Part; and

- 3) Include the following minimum requirements:

- A) Completion of at least 64 semester hours, or 96 quarter hours, including hours earned toward the master's degree requirements.

- B) Passing of a preliminary examination.

- C) Completion of at least an additional 32 semester hours, or 48 quarter hours of thesis research.

- D) Passing of a final examination.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.220 Definition of Degree in Basic Engineering or Related Science

- a) The educational institution shall be legally recognized and authorized

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by the jurisdiction in which it is located to confer a baccalaureate degree in engineering or related science.

- a) A Degree in Basic Engineering or Related Science is a 4 year curriculum resulting in a baccalaureate degree that includes courses in at least the following subjects which shall include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall include at least the following subjects for the noted semester hours or their equivalent:

1) Basic Engineering

Mathematics (beyond trigonometry) - 15-18 hours.
Basic Sciences (Physics and Chemistry) - 15-18 hours.
Additional Sciences - 30-36 hours.
Engineering Sciences and/or Design - 10-12 hours.
Humanities and/or Social Sciences - 15 hours.

- b) A baccalaureate degree in science must have resulted from a four-year program in a science related to the basics of engineering, such as Chemistry, Physics or Mathematics.

2) Related Science (Chemistry, Physics, and/or Mathematics)

Mathematics (beyond trigonometry) - 15-18 hours.
Basic Sciences (Physics/Chemistry) - 15-18 hours.
Additional Sciences - 40-48 hours.
Humanities and/or Social Sciences - 15 hours.

- c) The educational curriculum described above shall be evaluated as of the date of the awarding of the baccalaureate degree except as provided in subsection (d) below. Additional hours required to earn the baccalaureate degree shall provide the laboratory and computer-based experience, the communication skills and the understanding of ethical, social, economic and safety considerations required of an approved engineering program as provided for in Section 1380.210. Educational credit shall be evaluated as of the date of the awarding of the baccalaureate degree.

- d) In evaluating the acceptability of an applicant's basic engineering or related science curriculum of a baccalaureate degree, the Board Committee shall consider courses taken to attain a graduate degree in engineering and/or additional applicable advance course credits in mathematics, science or engineering as education, when the course-work of an applicant with a baccalaureate degree fails to satisfy the requirements of subsection either Section 1380.220(a) or Section

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1380.220(b) above. Not more than 15 hours may be made up in mathematics and basic sciences. Education considered in this manner shall may not also be credited as engineering experience.

- e) The Department, upon the recommendation of the Board Professional Engineering Examining Committee, has determined that educational credit leading to a degree in engineering technology does not meet the requirements for basic engineering or related science in accordance with this under Section 9(3) of the Illinois Professional Engineering Act.

- f) The provisions of this Section apply to all applicants upon adoption without regard to where an applicant is in the application process.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.230 Approved Experience

- a) Each individual application shall be reviewed by the Board Committee to determine if the applicant's submitted experience necessary for licensure meets the requirements for licensure may be earned in the manner described in this Section below. All experience, except under subsections (a)(3) and (a)(4) below, shall must have been acquired after receipt of the baccalaureate degree except as provided in subsection (3) and (4) below.

- 1) Credit for one year of experience shall be given for completion of graduate study resulting in a master's degree in engineering, except as credited under Section 1380.220(d).
- 2) Credit for 2 years of experience shall be given for completion of graduate study resulting in a doctor's degree in engineering. The maximum credit for graduate study shall be 2 years, except as credited under Section 1380.220(d).
- 3) Credit for one year of experience shall be given for a graduate of a university certified program providing a cooperative of program, which is a supervised industrial or field experience of at least one calendar year which alternates with periods of full-time academic training.
- 4) As provided for in Section 8(b)(2) of the Act Credit for experience shall be given for professional engineering experience earned PRIOR TO receipt of a baccalaureate degree shall be given if the experience is full-time and if the applicant takes 8 or more years to earn the degree as a part-time student.

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5) Experience shall be under the supervision of a professional engineer who verifies the number of years during which the applicant was doing work at a professional level, and the manner in which the work prepares the applicant for licensure as a professional engineer.

5 6) Credit for all necessary experience or any remaining experience shall only be given for actual experience in the practice of professional engineering. Such experience shall must be within the definition of the practice as set forth in Section 4(o) 2 of the Act, shall must require the application of technical knowledge and professional engineering principles, and shall must become progressively more complex. In at least the last two years of experience, the applicant shall have had must have directed the work, with responsibility for the accomplishment of the work, including decisions on questions or methods of execution and suitability of materials.

b) While an applicant may receive either experience credit, education credit or both, he may not receive more than one year's total credit for any one year (i.e., overlapping experience and education will be credited to one or the other category but not both).

e) The provisions of this Section apply to all applicants upon adoption without regard to where an applicant is in the application process.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.240 Application for Enrollment as an Engineer Intern in Training (EIT) by Examination

a) Required Documents for Application

1 a) An applicant for enrollment as an Engineer Intern in training shall file an application on forms supplied by the Department by December 15 for the spring examination or by June 15 for the fall examination at least 90 days prior to an examination date. The application shall include:

A 1) Either:

1 a) Completed college certification form showing receipt of a baccalaureate Bachelor of Science degree from an approved engineering program as set forth in Section 1380.210 of this Part; or

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11 B) Completed college certification form showing receipt of a baccalaureate Bachelor of Science degree in basic engineering or related science evidenced by an official transcript of educational credit, and verification of at least 4 years of completed experience certification on form(s), completed by indicating the supervisor of the required four years of experience. An applicant shall have acquired the experience required by this Section PRIOR TO applying to the Department;

B 2) The required fee specified in Section 20 27 of the Act;

C 3) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university;

4) A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned PRIOR TO receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.

2 b) An applicant in an approved engineering program shall be eligible to be seated for the first available Fundamentals of Engineering examination during the 12 months prior to graduation if the applicant provides a certification stating sworn statement that he is expected to graduate by the end of that 12 month period. The applicant shall be allowed to retake the examination during that 12 month period if he fails on the first attempt. However an applicant who passes the Fundamentals of Engineering examination prior to graduation will not be enrolled as an Engineer Intern in training until the Department has received certification of graduation, as required by subsection (a)(1)(A)(B)(4), above. If certification of graduation is not received within one year after the first examination is taken, the results of the examination(s) will be void and the examination will have to be retaken.

b c) Upon receipt of the application and all supporting documentation in complete order:

1) Persons with degrees from an approved engineering program will be notified of their eligibility to register for Part I of the examination;

2) The files of persons with degrees in basic engineering or related science will be presented to the Board ~~Committee~~ for evaluation of the required experience and/or education based on the criteria

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specified in Sections 1380.220 and 1380.230. Once the applications have been approved, those persons will be notified of their eligibility to register for Part I of the examination, examination filing deadline and the required examination fee as provided for in Section 20 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.250 Application for Licensure Registration as a Professional Engineer by Examination

a) Applicant enrolled as an Engineer Intern ~~in training~~ ~~(EIT)~~

1) An applicant shall have acquired all experience required by Section 1380.240 PRIOR TO making application to the Department.

2) An applicant for licensure registration as a professional engineer who is enrolled as an Engineer Intern ~~EIT~~ shall file an application on forms supplied by the Department by December 15 for the spring examination or by June 15 for the fall examination at ~~least 90 days prior to an examination date~~. The application shall include, in addition to the requirements of Section 8 of the Act, the following:

A) Completed experience verification certification form(s) ~~completed by the supervisor, indicating the required 4 years of experience earned. For Engineer Interns EITs enrolled elsewhere with a degree in basic engineering or related science, experience verification certification forms shall must be completed for the entire 8 years of required experience; except as provided in subsection (c) below;~~

B) For persons who were certified or enrolled as an Engineer Intern or Engineer-in-training in another state or territory:

i) A certification of such enrollment from the appropriate state board, including the date of the examination; and

ii) Completed college certification form showing degree received and, if the degree was not received from an approved engineering program, an official transcript of educational credit;

C) The required fee specified in Section 20 of the Act.

D) For an applicant claiming credit for participation in a

cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program from the university.

E) A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.

3) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board Committee for evaluation of the required education and experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for Part II of the examination, examination filing deadline and the required examination fee as provided for in Section 20 of the Act.

b) Applicant not enrolled as an Engineer Intern ~~in training~~

1) An applicant shall have acquired all experience as required in Section 1380.240 PRIOR TO making application to the Department.

2) An applicant for registration as a professional engineer who is not enrolled or certified as an Engineer Intern ~~in training~~ shall file an application on forms supplied by the Department by December 15 for the spring examination or by June 15 for the fall examination at ~~least 90 days prior to an examination date~~. The application shall include, in addition to the requirements of Section 8 of the Act, the following:

A) Either:

i) A degree from approved Engineering Program. Completed college certification form showing receipt of a baccalaureate Bachelor of Science degree from an approved engineering program, and completed experience verification certification form(s) completed by the supervisor, indicating the required 4 years of experience; ~~except as provided in subsection (c) below; or~~

ii) A degree in Basic Engineering or Related Science. Completed college certification form showing receipt of a baccalaureate Bachelor of Science degree in basic engineering or related science; an official transcript of education credit; and completed experience verification

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certification form(s) completed by the supervisor, indicating the required 8 years of experience, except as provided in subsection (e), below:

- B) The required fee specified in Section 20.27 of the Act; and
- C) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university.
- D) A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned PRIOR TO receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.

E) In addition to meeting the requirements in this subsection, an applicant seeking waiver of the fundamentals of engineering examination pursuant to Section 12(c) of the Act shall hold a doctoral degree from a graduate engineering program approved in accordance with Section 1380.210(f) and shall have demonstrated a broad knowledge of the fundamentals of engineering by successfully completing course-work including 10 of the following subjects:

- i) Calculus
- ii) Differential Equations
- iii) Chemistry
- iv) Physics
- v) Statics
- vi) Dynamics
- vii) Materials Science or Structure of Matter
- viii) Mechanics of Materials
- ix) Electrical Circuits
- x) Fluid Mechanics
- xi) Thermodynamics
- xii) Engineering Economics

- 2) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board Committee for evaluation of education and the required experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for both Part I and Part II of the examination, examination filing deadline, and the required examination fee as provided for in Section 20 of the Act.

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e) Applicant lacking final 4 months of experience

- 1) An applicant who has completed all but 4 months or less of his required experience by the final filing deadline for a particular examination will be permitted to sit for that examination.
- 2) No license shall be issued to the applicant until the Department receives a completed experience certification form verifying the actual completion of the required experience. If the verification is not received within 90 days after the examination is taken, the results of the examination will be void.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.260 Examination

a) The examination for licensure registration as a professional engineer shall be divided into two Parts, which shall be each Part being 8 hours in duration. If an applicant wishes only to be enrolled as an Engineer Intern in training, and if he otherwise qualified under Section 1380.240, he shall be required to take only Part I of the examination.

1) Part I - Fundamentals of Engineering Examination shall consist of problems or other examining techniques designed to evaluate the applicant's knowledge of the basic and engineering sciences and related subjects normally considered as the fundamentals of an engineering education.

2) Part II - Principles and practice of Engineering Examination shall consist of problems or other examining techniques relating to designs in or to the practice of professional engineering as described in Section 4(c) 2 of the Act.

b) The examination administered by the Department shall be provided by the National Council of Examiners for Engineering and Surveying (NCEES). The specific examination content shall be as determined by periodic evaluations of the test specifications by NCEES.

c) Part I of the examination will be waived for an applicant who is licensed registered as a structural engineer and who received such license his registration by passing the 16 hour written examination administered under the Illinois Structural Engineering Licensing Act of 1989 (Public Act 86-711, effective January 1, 1990) (Ill. Rev. Stat., 1985, ch. 111, par. 6501-et-seq.).

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e d) The scoring of the examinations and determination of scores shall be as approved by NCEES. Separate scores shall be given for Part I and Part II. The passing score on each Part shall be 70. An applicant must score at least 70 on a Part to pass that Part.

d e) An applicant who sits for both Parts I and II of the examination and passes only Part I shall be eligible to be enrolled as an Engineer Intern in training.

e f) Retake of Examination.

1) Applicants shall be required to retake only the Part(s) on which a passing score was not achieved.

2) Once an applicant has passed Part I of the examination and is eligible to be enrolled as an Engineer Intern in training, he will not be again required to take and pass Part I.

3) An applicant who takes an examination, but fails a Part(s), will be given two additional opportunities to pass the Part(s) within 25 months after the first failure. After such time, the applicant will be required to file a new application and retake the entire examination subject to the provisions of subsection (2) above. If an applicant neglects, fails without an approved excuse, or refuses to take the next available examination offered for licensure under this Act within 3 years after filing the application, the fee paid by the applicant shall be forfeited and the application denied. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing the application, the application shall be denied. However, such applicant may thereafter make a new application for examination, accompanied by the required fee (Section 9(b) of the Act). New applications shall include proof of meeting the qualifications for examination in effect at the time of such new application except as provided in subsection (b).

f g) Successful scores of previously passed Parts of the examination shall be accepted combined for the purposes of licensure registration provided the applicant has met all other requirements for licensure registration as outlined in the Act. For such purposes, the most recent score on a Part(s) shall be the score of record. In no circumstances shall the Department accept a previous passing score on a Part(s) for an applicant whose score of record is a failing score.

g) Upon adoption, the provisions of this Section shall apply to all

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~~applicants regardless of where the application is in the application process.~~

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.270 Restoration

a) A licensee registrant seeking restoration of his license certificate of registration which has expired for less than 5 five years shall have his license certificate restored upon application to the Department and payment of the required fees specified in Sections 17 and 20 27 of the Act.

b) A licensee registrant seeking restoration of his license certificate of registration which has been placed on inactive status for less than 5 five years shall have his certificate restored upon application to the Department and payment of the current renewal fee specified in Sections 17 and 20 27 of the Act.

c) A licensee registrant seeking restoration of his license certificate of registration after it has expired or been placed on inactive status for more than 5 five years shall file an application, on forms supplied by the Department for review by the Board, together with the fee required by Sections 17 and 20 27 of the Act. As specified in Section 14.1 of the Act, a registrant restoring from inactive status shall pay the current renewal fee. The licensee registrant shall also submit either:

1) Sworn evidence of active practice in another jurisdiction for at least the last 2 two years. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee registrant was authorized to practice during the term of said active practice;

2) An affidavit attesting to military service as provided in Section 17 14 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 17 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;

3) Proof of passage of Part II of the examination provided in Section 1380.260 within the 5 years preceding restoration; or

4) Other evidence of continued competence in professional engineering. Other such evidence shall include, but not be limited to show that he has:

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- A) Been--employed employment in a responsible capacity by a licensed registered professional engineer as determined by the Board Committee;
- B) Been---an---officer---or lawfully practicing professional engineering as an employee of a governmental agency the United States-government-as-a-professional-engineer;
- C) Been teaching professional engineering in a college or university; or
- D) Attendance at Attended educational programs in professional engineering or a related field, including, but not limited to, attendance at graduate level engineering courses, professionally oriented continuing education classes, or special seminars, or any other similar program.

d) When the accuracy of any submitted documentation, of the relevance or sufficiency of the course work or experience is reasonably questioned by the Department because of discrepancies or conflicts in information, information needing further clarification, and/or missing information, the licensee registrant seeking restoration of his license certificate-of-registration will be requested to:

- 1) provide such information as may be necessary; and/or
- 2) explain such relevance or sufficiency during an oral interview; or
- 3) appear for an interview before the Board Committee when the information available to the Board Committee is insufficient to evaluate the individual's current competency to practice under the Act. Upon recommendation of the Board Committee, and approval by the Director, an applicant shall have his license restored or will be notified of the reason for the denial of such application for restoration.

e) If an applicant is denied restoration under subsection (c)(4), the applicant may take and pass Part II of the examination provided for in Section 1380.260 for restoration of the applicant's license.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.280 Endorsement

- a) Any person who holds an unexpired certificate of registration or license to practice professional engineering, issued under the laws of

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another state, or territory or possession of the United States or the District of Columbia any foreign country and who desires to become licensed registered by endorsement shall file an application, on forms provided by the Department with the Department together with:

- 1) The required fee specified in Section 27 20 of the Act;
- 2) Proof of meeting that he has met the requirements substantially equivalent to those in force in this state at the time of his original or subsequent licensure by examination in the other jurisdiction, including certification of education, and verification affidavits of experience, as appropriate;
- 3) A certification by the jurisdiction of original licensure and certification of current licensure from the jurisdiction of predominant active practice stating including the following:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) The basis of licensure and A a description of all the license examinations by which the applicant was licensed in that jurisdiction and the date of its successful passage of such examinations completion; and,
 - C) Whether the files--of--records of the licensing authority contain any record of any disciplinary action taken or pending against the applicant.

4) If--the--applicant--is--not--currently--licensed--in--the--state--of--original--licensure, a certification of his current licensure; and

4) A complete work history, on forms provided by the Department.

5) If the qualifications of the applicant at the time of original licensure did not meet the requirements in effect at that time for licensure in this state, the applicant may submit additional certifications from other jurisdictions to indicate meeting the qualifications in effect in this state at the time of any later licensure.

- 5 6) In lieu of the documentation specified in subsections (a)(2), (3), and (4), and (5), an applicant may submit a current Council Record and Certification of Verification from NCEES the National Council of Engineering-Examiners-(NCEES)-Certification-of-His-Record.

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b) ~~The Department shall examine each endorsement application to determine whether the requirements in the jurisdiction of licensure by examination were comparable to the requirements then in force in this state.~~

† 7) The Department may, in individual cases, upon the recommendation of the Board Committee, waive a portion of the examination requirements after consideration of the quality of an applicant's engineering education and experience, including whether he has graduated from an approved engineering program, is certified by the National Council of Engineering Examiners, has achieved special honors or awards, has had articles published in professional recognized and reputable journals, has written or participated in the writing of textbooks relating to a professional engineering, and including any other circumstance or attribute which the Board Committee accepts as evidence that such applicant has outstanding and proven ability in the practice of professional engineering. The Department shall follow such recommendation of the Committee.

8) Applicants for endorsement having obtained the following acceptable experience, in accordance with Section 1380.230, PRIOR to taking the Principles and Practice of Engineering Examination shall be considered in compliance with the experience requirements of Section 10 of the Act:

A) Under Section 10(a) of the Act, at least 3 years and 9 months of acceptable experience after receipt of the baccalaureate degree, or

B) Under Section 10(b) of the Act, at least 7 years and 9 months of acceptable experience after receipt of the baccalaureate degree.

C) Applicants not meeting the above requirements at the time of original or subsequent examination shall retake the Principles and Practice of Engineering Examination after meeting the necessary requirements.

2 9) Appendix A of this Part outlines the licensure requirements in force during various periods and should be consulted by the applicant to aid in the evaluation of his qualifications.

c) The Department shall examine each endorsement application to determine whether the qualifications of the applicant at the time of original or subsequent licensure were substantially equivalent to the requirements

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then in force in this state. The Department shall either issue a license by endorsement to the applicant or notify such applicant of the reasons for the denial of the application. ~~The Department shall within 30 days either issue a certificate of registration by endorsement to the applicant or notify him in writing of the reasons for the denial of this application. An applicant not qualified for licensure registration by endorsement will automatically be reviewed under the provisions of Section 1380.250.~~

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.285 Inactive Status

a) Any licensed professional engineer who notifies the Department in writing on forms prescribed by the Department may elect to place his license on inactive status and shall be excused from the payment of renewal fees until he notifies the Department in writing of his desire to resume active status.

b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1380.270 of this Part.

c) Any licensed professional engineer whose license is on inactive status shall not practice engineering in the State of Illinois. Practicing or offering to practice on a license which is on inactive status shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 24 of the Act.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1380.290 Corporations and Partnerships

a) Persons who desire to practice professional engineering in this State in the form of a partnership or corporation (if the form is a corporation and such corporation was not formed under the Professional Service Corporation Act (Ill. Rev. Stat. 1987, ch. 32, par. 415-1, et seq.)) shall, in accordance with Section 23 of the Act, file an application with the Department, on forms provided by the Department, together with the following organize a corporation under the Act for the purpose of practicing professional engineering shall file the following with the Department:

1) For Corporations.

† A) An application containing the name of the corporation and its registered address, and the names of all members of the board

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of directors, with and the name of the state and license number for each director who is licensed as a professional engineer--the license numbers--of--these--directors--who--are registered professional engineers,--to--qualify--under--Section 1-2--of--the--Act,--a--majority--of--the--board--of--directors--must--be registered professional engineers; and

- 2 B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the Corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. The purpose clause of the Articles of Incorporation shall designate that the purpose of the corporation is to provide engineering services, and, if it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required; and.

- 2) For Partnerships. An application containing the name of the partnership and its business address and the names of all general partners, with the name of the state in which each is licensed as a professional engineer and the license number of each general partner.

- 3) A certified copy of the a resolution of the board of directors of the corporation or of the general partners, as the case may be, designating a member of the board or a member of the partnership who is an Illinois licensed professional engineer as the designating--an--Illinois--registered--professional--engineer--as--an officer--or managing agent in charge of the engineering activities in this State and investing in such managing agent him with full authority to make all final decisions involving engineering work within Illinois (Ill--Rev--Stat--1983--ch--111--Par--5102(a)).

- 4) A list of all office locations at which the corporation or partnership provides engineering services.

- b) Upon receipt of the above documents and review of the application, the Department shall within 30 days issue a license letter authorizing the corporation or partnership to engage in the practice of professional engineering or notify the applicant of the reason for the denial of such application.

- c) Each such corporation or partnership shall be responsible for notifying the Department within 30 days of any changes in:

- 1) The membership of the board of directors or the general partners; and

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- 2) The licensure status of any of the general partners or any of the licensed registered professional engineer members of the board of directors; and.

- 3) The officer--or--managing--agent--in--charge--of--the--engineering activities--in--this--State.

- d) Each corporation or partnership shall be responsible for notifying the Department, in writing, by certified mail, within 10 business days of the termination or change in status of the managing agent. Thereafter, the corporation or partnership, if it has so informed the Department, has 30 days to notify the Department of the name and license number of the professional engineer licensed in Illinois who is the newly designated managing agent as provided in subsection (a)(2)(A) above.

- e) Any failure to notify the Department as required in subsection (c) and (d) above or any failure of the corporation or partnership to continue to comply with the requirements of Section 23 1-1 and 1-2 of the Act will subject the corporation or partnership to the loss of its license authorization to practice professional engineering in Illinois.

- f) Each corporation or partnership shall submit with the renewal application, on forms provided by the Department, a listing of all employees of the entity who hold current licensure in Illinois.

- g) The fee required in Section 20 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380.300 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of professional engineering, the following Standards of Professional Conduct shall be binding on every person holding a certificate of registration as a Professional Engineer and on all corporations authorized to practice professional engineering in this state.

- a) Professional Responsibility. Licensees Registrants shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.

- 1) Licensees Registrants shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is

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overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify their client or employer and such authority(s) as may be appropriate (which may include the Department or other law enforcement agencies).

- 2) Licensees Registrants shall approve and seal only those designs reviewed or prepared by them, and found to be safe for the public health, property and welfare.
- 3) Licensees Registrants shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.
- 4) Licensees Registrants shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.
- 5) Licensees Registrants having knowledge of any alleged violation of any of this Part these Rules shall cooperate with the Department, furnishing such information or assistance as may be required to conduct an investigation resulting from a formal or informal complaint.

- b) Competence. Licensees Registrants shall perform services only in areas of their competence.

- 1) Licensees Registrants shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.

- 2) Licensees Registrants shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared or reviewed under their direct supervisory control.

- 3) Licensees Registrants may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by registrants qualified in those phases.

- c) Professional Integrity. Licensees Registrants shall issue professional statements in an objective and truthful manner.

- 1) Licensees Registrants shall be completely objective and truthful in all professional reports, statements or testimony.
- 2) Licensees Registrants may express publicly a professional opinion on technical subject(s) only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.

- 3) A licensee registrant, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on engineering matters without first prefacing such comments by explicitly identifying on whose behalf the comments will be made. When the licensee registrant is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client. Such licensee registrant shall reveal any personal interest in the matter.

- d) Conflict of Interest. Licensees Registrants shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest.

- 1) Licensees Registrants shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable; however, licensees registrants shall disclose promptly to their employers or clients any business association, interest or circumstance which may influence judgment or quality of services.

- 2) Licensees Registrants shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee registrant makes full disclosure and receives consent of all interested parties.

- 3) Licensees Registrants shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee registrant is a known employee or agent of the supplier.

- 4) Licensees Registrants shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's registrant's employer or client in connection with work for which the licensee registrant is responsible.

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- 5) Licensees Registrants in public service as members, advisors or employees of a governmental body or department shall not participate in decisions with respect to professional services solicited or provided by them or their organization.
- 6) Licensees Registrants shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member.
- e) Employment Solicitation. Licensees Registrants shall avoid improper solicitation of professional employment.
- 1) Licensees Registrants shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.
- 2) Licensees Registrants shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

Section 1380.310 Renewals

- a) Every license ~~certificate-of-registration~~ issued to an individual under the Act shall expire on November 30 of each even numbered year. The holder of a license ~~certificate-of-registration~~ may renew such license for a two year period ~~certificate~~ during the month preceding the expiration date thereof by paying the required fee required by Section 20 of the Act.
- b) It is the responsibility of each licensee registrant to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee and to renew one's license.
- c) Every license issued to a corporation or partnership under the Act shall expire on April 30 of each odd numbered year. The holder of such license may renew that license for a 2 year period during the month preceding the expiration date thereof by paying the required fee and submitting a current listing of professional engineers licensed in Illinois that are employed by the firm.

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- d) Practicing or offering to practice on a license which has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 24 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)
Section 1380.320 Granting Variances

- a) The Director may, after notice to the Board Professional-Engineer-Examining-Committee, grant variances from these rules in individual cases where he finds that:
 - 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board Professional-Engineer-Examining-Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Board Committee.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1380. APPENDIX A Significant Dates for the Administration of Section 19 944 of the Act - Endorsement

- 1 a) July 20, 1945. The Illinois Professional Engineering Act became effective on July 20, 1945. Prior to that date, there was no legal requirement in Illinois governing the practice of Professional Engineering or requiring registration of engineers.
- 2 b) July 20, 1946. That date terminated registration under the "Grandfather Clause", which exempted Illinois residents engaged in the practice of Professional Engineering from examination, unless affected by service in the armed forces of the United States including the Merchant Marine. Thereafter, full examination was required except as indicated under subsections (c) and (d) 3-and-4, below.
- 3 c) November 20, 1946. Prior to that date, graduates of approved engineering curricula with 4 ~~four~~ or more years of professional engineering experience were eligible for registration by examination of their record of education, experience, and substantiating evidence. Written examination was not required.

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- 4 d) July 20, 1950. Prior to that date, graduates of approved engineering curricula with 4 ~~few~~ or more years of professional engineering experience were required to take only Part II of the written examination for registration.
- e) ~~Applicants originally licensed in New York or Pennsylvania prior to January 1, 1965, shall have their 12 hour examination accepted for endorsement based on prior agreement.~~
- 5 f) January 1, 1974. a) Prior to that date, an EIT applicant was eligible for examination upon proof of at least 4 years of study, training and experience.
- b) ~~Prior to that date, for an applicant for the full examination, there was no requirement that Part I must be passed before Part II.~~
- 6 g) January 1, 1978. Prior to that date, an applicant who qualified under with 8 years of combined education and experience Section 9(4) would be admitted to the full examination.
- ~~An applicant who qualified only under Section 9(4) would take the full examination and must have passed both Part I and Part II of the examination. Failure to pass either Part I or Part II required retake of the full examination.~~
- (Source: Amended at 14 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: Land Surveyors Act
- 2) Code Citation: 68 Ill. Adm. Code 1270

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Section Numbers:</u>	<u>Proposed Action:</u>
1270.5	Adding	1270.35	Adding
1270.10	Amending	1270.40	Amending
1270.13	Adding	1270.45	Adding
1270.15	Amending	1270.50	Amending
1270.20	Amending	1270.60	Amending
1270.30	Amending		

- 4) Statutory Authority: The Illinois Professional Land Surveyors Act of 1989 (Public Act 86-987, effective January 1, 1990).

- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking implements the rewrite of The Illinois Professional Land Surveyors Act of 1989.

Various technical, typographical and format changes have been made.

The terms certificate of registration, registrant, and registration have been changed to license, licensure, and licensee throughout.

The Land Surveying Examining Committee is now referred to as the Land Surveying Board.

Section 1270.5 pertaining to application requirements for licensure as a professional land surveyor-in-training by examination has been added. This information was previously included under Section 1270.10 which now pertains strictly to application requirements for licensure as a professional land surveyor.

Beginning January 1, 1998, pursuant to Section 13 of the Act, an applicant shall have a baccalaureate degree in land surveying from an accredited college or university, or a baccalaureate in a related science including at least 24 semester hours of land surveying courses from a Board approved curriculum of an accredited institution, to be eligible for licensing as a land surveyor-in-training.

The requirement of 5 character references has been eliminated from Section 1270.10.

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Section 1270.13 pertaining to experience requirements has been added and requires experience to be in the responsible charge of land surveying operations, within the definition of the practice of land surveying and under the direct supervision and control of a land surveyor.

The name of the organization which develops the examinations required in Section 1270.20 has been changed to the National Council of Examiners for Engineering and Surveying (NCEES). In accordance with Section 11 of the Act, if an applicant neglects, fails or refuses to take an examination for licensure within 3 years after filing his application, the application fee shall be forfeited and the application denied. However, the applicant may thereafter make a new application for examination, accompanied by the required fee. New applications shall include proof of meeting the qualifications for examination in effect at the time of such new application except that scores from examinations already passed under a previous application shall be carried over.

The term "reciprocity" in Section 1270.30 has been changed to "endorsement".

Section 1270.35 which has been added pertains to inactive status and prescribes the procedure that must be followed in order for a licensee to place his license on inactive status.

Section 1270.45 has been added and pertains to the application procedure and requirements that persons wanting to practice land surveying in the form of a corporation or partnership must follow.

Section 1270.50 pertaining to the renewal requirements of licensees has been modified to include expiration dates for corporations and partnerships. Also, practicing or offering to practice on a license which has expired or been placed on inactive status shall be considered unlicensed activity and shall be grounds for discipline.

6) Will these proposed amendments replace an emergency Rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed Rules pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable):

There is no statement of statewide policy objective.

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11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested Persons may submit written comments and views to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 1, 1990

B) Types of small businesses affected: Licensed Professional Land Surveyors

C) Reporting, bookkeeping or other procedures required for compliance:

Corporations and partnerships licensed to practice land surveying shall be required to notify the Department within 30 days of any changes in the membership of the board of directors or the general partners, or the licensure status of any of the general partners or any of the licensed land surveyor members of the Board of directors.

D) Types of professional skills necessary for compliance: Land surveying.

The full text of the Proposed amendments begins on the next page:

ILLINOIS REGISTER
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1270
ILLINOIS PROFESSIONAL LAND SURVEYORS ACT OF 1989

- 1270.5 Application for Licensure as a Professional Land Surveyor-in-Training by Examination
- 1270.10 Applications for Licensure Registration as a Professional Land Surveyor by Examination
- 1270.13 Experience
- 1270.15 Definition of Related Science
- 1270.20 Examinations
- 1270.30 Endorsement Reciprocity
- 1270.35 Inactive Status
- 1270.40 Restoration
- 1270.45 Corporations and Partnerships
- 1270.50 Renewals
- 1270.60 Granting Variances

AUTHORITY: Implementing The Illinois Professional Land Surveyors Act of 1989 (Public Act 86-987, effective January 1, 1990) and authorized by Section 60(7) of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 60(7)).

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Land Surveyors Act, effective April 27, 1967; 2 Ill. Reg. No. 50, page 64, effective December 11, 1978; codified at 5 Ill. Reg. 11039; 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 8 Ill. Reg. 5365, effective April 12, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15485, effective August 10, 1984; amended at 11 Ill. Reg. 1615, effective January 6, 1987; amended at 11 Ill. Reg. 4763, effective March 10, 1987; recodified from Chapter I, 68 Ill. Adm. Code 270 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1270 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2950; amended at 14 Ill. Reg. _____, effective _____.

Section 1270.5 Application for Licensure as a Professional Land Surveyor-in-Training by Examination

- a) An applicant for licensure as a Professional Land Surveyor-in-Training

under the Illinois Professional Land Surveyor Act of 1989 (the "Act") (Public Act 86-987, effective January 1, 1990) shall file an application, on forms supplied by the Department of Professional Regulation (the "Department"), at least 90 days prior to the examination date. The application shall include the following:

- 1) Certification of education completed by the educational institution attended and/or experience verified by the employer of one of the following:
 - A) A baccalaureate degree in land surveying from an accredited college or university;
 - B) A baccalaureate degree from an accredited college or university in a related science, as defined in Section 1270.15, including 24 semester hours of land surveying courses;
 - C) A baccalaureate degree in a related science, as defined in Section 1270.15, from an accredited college or university and two (2) years of approved land surveying experience;
 - D) An associate degree in land surveying technology from an accredited junior college and three (3) years of approved land surveying experience as set forth in Section 1270.13;
 - E) An associate degree in engineering technology from an accredited junior college and four (4) years of approved land surveying experience as set forth in Section 1270.13; or
 - F) A high school diploma or GED and twelve (12) years of approved land surveying experience as set forth in Section 1270.13.
- 2) A complete work history indicating all employment since fulfillment of the educational requirements set forth in subsection (1) above.
- 3) If such applicant has ever been licensed in another jurisdiction, certification from the jurisdiction of original licensure and certification from the jurisdiction of predominant active practice, including the following:
 - A) The date of issuance of the applicant's license and the current status of such license;
 - B) The basis of licensure and a description of the examination by

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which the applicant was licensed, if any; and

- C) Whether the records of the licensing authority contain any record of any disciplinary action taken or pending against the applicant.

- 4) The required fee specified in Section 21 of the Act.

b) *Beginning January 1, 1998, an applicant shall have a baccalaureate degree in land surveying from an accredited college or university, or a baccalaureate in a related science including at least 24 semester hours of land surveying courses from a Board approved curriculum of an accredited institution, to be eligible for licensing as a Land Surveyor-in-Training (Section 13 of the Act).*

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1270.10 Applications for Licensure Registration as a Professional Land Surveyor by Examination

An applicant All-applicants for licensure registration as a Professional Registered Land Surveyor, or certification as a Land Surveyor-in-Training (SIT) shall file an application, on forms supplied by the Department, at least 90 days prior to the examination date. The application shall include the following: must be fully completed on forms prescribed by the Department. Applications for examination must be received by the Department or designated testing service prior to the date of the examination as specified in the instructions for examination application, and include the following:

- a) Educational and experience requirements.

- 1) Applicants filing after January 1, 1986:

- A) Shall have met one of the educational and experience requirements set forth in Section 1270.5;
- B) Shall have been issued a license as a Professional Land Surveyor-in-Training; and
- C) Shall have completed at least four (4) years of approved experience in land surveying as set forth in Section 1270.13. Such experience shall be subsequent to receiving the Professional Land Surveyor-in-Training license.
- 2) Applicants who have obtained four (4) years of experience or more in the practice of land surveying PRIOR TO January 1, 1982:

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- A) Shall have met one of the educational and experience requirements set forth in Section 1270.5(a)(1); and

- B) Shall have completed at least four (4) years of approved experience in land surveying as set forth in Section 1270.13. Applicants may be permitted to continue acquiring experience without being issued a Professional Land Surveyor-in-Training license.

- b) If such applicant has ever been licensed in another jurisdiction, certification from the jurisdiction of original licensure and certification from the jurisdiction of predominant active practice, including the following:

- A) The date of issuance of the applicant's license and the current status of such license;

- B) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and

- C) Whether the records of the licensing authority contain any record of any disciplinary action taken or pending against the applicant.

- c) Verification of experience form, completed by the employer, indicating the required four (4) years of approved experience in land surveying as set forth in Section 1270.13.

- d) A complete work history indicating all employment since fulfillment of the educational requirements set forth in Section 1270.5.

- e) The required fee specified in Section 21 of the Act.

- a) References

- 1) An applicant for examination as a Registered Land Surveyor must have five references as required by Section 5 of the Act (Ill. Rev. Stat. 1983, ch. 111, par. 3208).

- 2) An applicant for examination as a Land Surveyor-in-Training must have five references as required by Section 5 of the Act (Ill. Rev. Stat. 1983, ch. 111, par. 3208).

- b) College Transcripts and Employer Affidavit

- 1) An applicant for examination as a Registered Land Surveyor who is

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applying on the basis of 8 years practical experience only, which experience is wholly in land surveying, shall submit an Employer Affidavit, which shall be sealed by the employer, certifying the validity of the land surveying experience. At least 4 years of the 8 years experience shall be in responsible charge of land surveying operations under the direct control and supervision of a Registered Land Surveyor. After January 1, 1986, such experience in responsible charge must be subsequent to receiving certification as a Land Surveyor in training;

2) An applicant for examination as a Registered Land Surveyor who is applying on the basis of 4 years practical experience in responsible charge of land surveying operations obtained subsequent to certification as a Land Surveyor in training shall submit an Employer Affidavit certifying the validity of the land surveying experience which affidavit shall be sealed by the employer. The applicant shall also submit the Certification of Registration form to the appropriate licensing authority for completion and direct transmittal to the Department or its designated testing service.

3) An applicant for examination as a Registered Land Surveyor who is applying on the basis of a combination of post secondary educational preparation and practical land surveying experience shall submit official college transcripts verifying the educational preparation and an Employer Affidavit, which shall be sealed by the employer, certifying the validity of the experience. At least 4 years of the experience shall be in responsible charge of land surveying operations under the direct control and supervision of a Registered Land Surveyor.

4) An applicant for examination as a Land Surveyor in Training who is applying on the basis of 8 years practical experience in land surveying shall submit an Employer Affidavit, which shall be sealed by the employer, certifying the validity of the land surveying experience, and shall also submit a notarized copy of the applicant's high school diploma, or a General Educational Development certificate.

5) An applicant for examination as a Land Surveyor in Training who is applying on the basis of a combination of post secondary educational preparation and practical land surveying experience shall submit official college transcripts verifying the educational preparation and an Employer Affidavit, which shall be sealed by the employer, certifying the validity of the experience.

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6) An applicant for examination as a Land Surveyor in Training who is applying on the basis of a baccalaureate degree in land surveying shall submit official college transcripts verifying the baccalaureate training and degree conference.

c) One recent photograph not larger than 2-1/2 by 2-1/2 inches; and

d) The required fee.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1270.13 Experience

The experience requirements set forth in Section 1270.5 and 1270.10 shall meet the criteria described below.

a) Credit shall be given for actual experience in the practice of land surveying. Such experience shall be in responsible charge of land surveying operations as defined in Section 4(e) of the Act and shall be within the definition of the practice of land surveying as defined in Section 5 of the Act.

b) Such experience shall be under the direct supervision and control of a professional land surveyor as defined in Section 4(d) of the Act.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1270.15 Definition of Related Sciences

a) A baccalaureate degree in a Related Science is a four-year curriculum that includes core courses in at least the following subjects for the minimum noted semester hours or their equivalent:

- 1) Mathematics (beyond trigonometry) - 15 hours
- 2) Basic Sciences (Physics, Chemistry, Geology) - 15 hours
- 3) Additional Sciences - 15 hours

b) An associate degree in a Related Science is a two-year curriculum that includes core courses in at least the following subjects for the minimum noted semester hours or their equivalent:

- 1) Mathematics (beyond trigonometry) - 3-6 hours
- 2) Basic Sciences (Physics, Chemistry, Geology) - 4-6 hours

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- 3) Additional Sciences - 4-6 hours

(Source: Amended at 14 Ill. Reg. _____, effective _____)
Section 1270.20 Examinations

- a) An applicant for licensure to be eligible for certification as a Professional Land Surveyor-in-Training an applicant must pass the National Council of Engineering Examiners for Engineering and Surveying (N-C-E-E-S) Fundamentals of Land Surveying Examination.

- b) To be eligible for registration as a Registered Land Surveyor an applicant who applies prior to January 1, 1986, who is not certified as a Land Surveyor-in-Training and who has completed the experience specified in Section 1270.10(b)(1), must pass all of the following examinations:

- 1) National Council of Engineering Examiners Fundamentals of Land Surveying Examination;

- 2) National Council of Engineering Examiners Principles and Practice of Land Surveying Examination; and

- 3) Illinois Jurisdictional Examination.

- e) An applicant for licensure to be eligible for registration as a Professional Registered Land Surveyor an applicant who is licensed certified as a Professional Land Surveyor-in-Training shall pass the following examinations:

- 1) NCEES National Council of Engineering Examiners Principles and Practice of Land Surveying Examination; and

- 2) Illinois Jurisdictional Examination.

- c) An applicant for licensure as a Professional Land Surveyor who had applied prior to January 1, 1986, who is not licensed as a Professional Land Surveyor-in-Training shall pass the following examinations:

- 1) NCEES Fundamentals of Land Surveying Examination;

- 2) NCEES Principles and Practice of Land Surveying Examination; and

- 3) Illinois Jurisdictional Examination.

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- d) In order to pass the examination(s) an applicant shall must achieve the following:

- 1) a score of 70 or greater on the N-C-E-E-S Fundamentals of Land Surveying Examination;

- 2) a score of 70 or greater on the N-C-E-E-S Principles and Practice of Land Surveying Examination; and

- 3) a score of 70 or greater on the Illinois Jurisdictional Examination.

- e) The Illinois Jurisdictional Examination shall include, but not be limited to, test the following areas:

- 1) Local History;

- 2) Jurisdictional Standards and Ethics (Knowledge of prevailing professional standards and ethics specific to Illinois);

- 3) Jurisdictional Legal Precedent and Principles (Knowledge of legal principles and requirements specific to Illinois);

- 4) Jurisdictional Field Techniques (Knowledge of field research techniques specific to Illinois); and

- 5) Jurisdictional Record Sources (Knowledge of sources of records and information specific to Illinois).

- f) The Department will not use any of the subject area scores from the parts of previous state constructed examinations for the purpose of deriving the required passing score for any examination required by this Section.

- g) Retake of examination.

- g) 1) Applicants who obtain a score of less than 70 on either the N-C-E-E-S Fundamentals of Land Surveying Examination, the N-C-E-E-S Principles and Practice of Land Surveying Examination or the Illinois Jurisdictional examination will be required to retake only the examination(s) failed.

- 2) If an applicant neglects, fails, or refuses to take an examination for registration under this Act within 3 years after filing his application, the application fee shall be forfeited to the Department and the application denied. However, the applicant may

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thereafter make a new application for examination, accompanied by the required fee (Section 11 of the Act). New applications shall include proof of meeting the qualifications for examination in effect at the time of such new application with the exception provided in subsection (3).

- 3) Scores from examinations already passed under a previous application shall be carried over and applied to subsequent applications.

(Source: Amended at 14 Ill. Reg. ____, effective ____)

Section 1270.30 Endorsement Reciprocity

- a) An applicant who is licensed or registered to practice Land Surveying as a Professional Land Surveyor or a Professional Land Surveyor-in-Training Any person who holds a current valid Certificate of Registration as a Land Surveyor issued under the laws of another state, or territory, or possession of the United States who desires desiring to become licensed registered by endorsement reciprocity shall file an application with the Department together with the following:

- 1) Proof satisfactory to the Department that the applicant he has met the requirements substantially equivalent to those in force in this state for a Licensed Professional Registered Land Surveyor which are equivalent to those in force in Illinois at the time of his original or subsequent licensure by examination in the other state or territory jurisdiction, including certification of education, and verification affidavits of experience as appropriate;

- 2) A certification by the state or territory jurisdiction of original licensure and certification from the state or territory of predominant active practice, stating including the following:

- A) The time during which the applicant was licensed in that state or territory jurisdiction, including the date of the original issuance of the license;
- B) The basis of licensure and a description of the all licensure examinations by which the applicant was licensed in that state or territory and the date of its successful completion passage of any such examinations; and
- C) Whether the files records of the licensing authority contain

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any record of any disciplinary action taken or pending against the applicant;

- 3) A complete work history indicating all employment since fulfillment of educational requirements.

- 4) Proof of current licensure---if the applicant is not currently licensed in the state of original licensure, proof of current licensure in another state;

- 4 5) The required fee specified in Section 21 of the Act.

- b) An applicant candidate for licensure under this Section shall be required to appear before the Land Surveyor Examining Board (the "Board") Committee for an oral interview if the Department has questions about the applicant's his application, because of discrepancies or conflicts in information, information needing further clarification and/or missing information insufficient documentation, apparent conflicts, or similar reasons.

- c) Applicants for licensure on the basis of endorsement reciprocity shall successfully complete write the Illinois Jurisdictional Examination as set forth in Section 1270.20. To be successful in the Illinois Jurisdictional Examination, applicants must receive a score of 70 or greater.

- d) The Department shall examine each endorsement application to determine whether the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in force in this state. The Department shall either issue a license by endorsement to the applicant or notify the applicant of the reason for the denial of such application.

(Source: Amended at 14 Ill. Reg. ____, effective ____)

Section 1270.35 Inactive Status

- a) Any Licensed Professional Land Surveyor who notifies the Department in writing, on forms prescribed by the Department, may elect to place his license on inactive status and shall be excused from the payment of renewal fees until he notifies the Department in writing of his desire to resume active status.

- b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1270.40 of this Part.

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- c) Any Licensed Professional Land Surveyor whose license is on inactive status shall not practice land surveying in the State of Illinois. Practicing or offering to practice on a license which is on inactive status shall be grounds for discipline under Section 27 of the Act.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1270.40 Restoration

- a) A licensee registrant seeking restoration of his license certificate of registration which has expired for less than five (5) years shall have his license restored upon payment of \$10 plus all lapsed renewal fees specified required by Section 21 of the Act.
- b) A licensee registrant seeking restoration of his license certificate of registration which has been placed on inactive status for less than five (5) years shall have his license restored upon payment of the current renewal restoration fee specified by Section 18 and 21 of the Act.
- c) A licensee registrant seeking restoration of his license certificate of registration after it has expired or been placed on inactive status for more than five (5) years shall file an application, on forms supplied by the Department for review by the Board, together with the fee specified required by Section 18 and 21 of the Act. The licensee registrant shall also submit either:

- 1) Certification Sworn--evidence of active practice in another jurisdiction. Such certification evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee registrant was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 16 of the Act; or
 - 3) Proof of passage of the Illinois Jurisdictional Examination and/or the NCEES examination within one year of application.
- d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is reasonably questioned by the Department because of discrepancies or conflicts in information, information needing further clarification, and/or missing information, the licensee seeking restoration of his license shall registrant will be required to:

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- 1) Provide such information as may be necessary; and/or
- 2) Explain such relevance or sufficiency during an oral interview; or
- 3) Appear for an oral interview before the Land Surveyors Examining Board (the "Board"), when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Committee--designed-to-determine-the-individual's-current-competency-to-practice-as-a-land-surveyor. Upon the recommendation of the Board, and approval by the Director, an applicant shall have his license restored or will be notified of the reason for the denial of such application for restoration.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1270.45 Corporations and Partnerships

- a) Persons who desire to practice land surveying in this State in the form of a partnership, pursuant to Section 26 of the Act, or a corporation (if the form is a corporation and such corporation was not formed under the Professional Service Corporation Act (Ill. Rev. Stat. 1987, ch. 32, par. 415-1, et seq.)) pursuant to Section 25 of the Act, shall file an application with the Department on forms provided by the Department, together with the following:

1) For Corporations:

- A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is licensed as a land surveyor; and

- B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. The purpose clause of the Articles of Incorporation shall designate that the purpose of the corporation is to provide land surveying services. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required.

- 2) For Partnerships. An application containing the name of the partnership and its business address and the names of all general partners, with the name of the state in which each is licensed as a land surveyor and their license numbers.

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b) A list of all office locations at which the corporation or partnership provides land surveying services.

c) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the corporation or partnership to engage in the practice of land surveying or notify the applicant of the reason for the denial of such application.

d) Each corporation or partnership shall be responsible for notifying the Department within 30 days of any changes in:

1) The membership of the board of directors or the general partners; or

2) The licensure status of any of the general partners or any of the licensed land surveyor members of the board of directors.

f) The fee specified in Section 21 of the Act.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1270.50 Renewals

a) Every license as a Professional Land Surveyor certificate--of registration issued under the Act shall expire on November 30 of each even numbered year. The holder of a license certificate--of registration may renew such license certificate during the month preceding the expiration date thereof by paying the required fee specified in Section 21 of the Act.

b) It is the responsibility of each licensee registrant to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee and to renew one's license.

c) A license for a Land Surveyor-in-Training is valid for 10 years and may not be renewed (Section 18 of the Act).

d) Every license issued to a corporation or partnership under the Act shall expire on April 30 of each odd numbered year. The holder of such license may renew that license for a two-year period during the month preceding the expiration date thereof by paying the fee specified in Section 21 of the Act.

e) Practicing or offering to practice on a license which has expired or

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been placed on inactive status shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 27 of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1270.60 Granting Variances

a) The Director of Professional Regulation may grant variances from these rules in individual cases where he finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Board Land-Surveying-Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Board Committee.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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1) The Heading of the Part: APPLICATION PROCESS

2) Code Citation: 89 Ill. Adm. Code 110

3) Section Number: Proposed Action:
110.30 Amendment

4) Statutory Authority: Sections 11-4 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 11-4 and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements P.A. 86-885 which requires the Department to institute policies and procedures to facilitate the timely processing of reapplications for assistance. As part of our compliance with P.A. 86-885, this rulemaking extends from ten days to thirty days the time frame within which an individual may apply for General Assistance (in the City of Chicago) when found ineligible for AFDC or AABD. If the individual is determined eligible for General Assistance, he or she will receive assistance with no gap in benefits. Interested parties should also see the amendment to 89 Ill. Adm. Code 102.70 which also appears in this issue of the Illinois Register.

6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No ☐

8) Does this Proposed Amendment contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois

NOTICE OF PROPOSED AMENDMENT

Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois 62762, (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 110
APPLICATION PROCESS

- Section 110.1 Incorporation By Reference
110.10 Application For Assistance
110.15 Local Office Action on Application for Public Assistance
110.20 Time Limitations On the Disposition On An Application
110.30 Approval of An Application and Initial Authorization of Financial Assistance
110.32 Approval of An Application and Initial Authorization of Medical Assistance (MAG)
110.34 Approval of An Application and Initial Authorization of Medical Assistance - No Grant (MANG)
110.36 Approval of An Application and Initial Authorization of General Assistance and Aid to the Medically Indigent
110.38 General Assistance and Aid to the Medically Indigent -- Special Approval Provisions
110.40 Denial of An Application

AUTHORITY: Implementing Articles III, IV, V, VI and VII authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-5 et seq., 6-1 et seq., 7-1 et seq., and 12-13).

SOURCE: Filed and effective December 30, 1977; emergency amendment at 2 Ill. Reg. 44, p. 167, effective October 19, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 6 Ill. Reg. 8125, effective July 1, 1982; codified at 7 Ill. Reg. 5195; amended at 8 Ill. Reg. 6760, effective May 3, 1984; amended at 9 Ill. Reg. 6798, effective April 30, 1985; amended at 9 Ill. Reg. 13087, effective August 16, 1985; amended at 12 Ill. Reg. 11457, effective July 1, 1988; amended at 13 Ill. Reg. 3836, effective March 10, 1989; amended at 13 Ill. Reg. 10628, effective June 22, 1989; amended at 14 Ill. Reg. _____, effective _____.

Section 110.30 Approval of An Application and Initial Authorization of Financial Assistance

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 110.30 Approval of An Application and Initial Authorization of Financial Assistance (Cont'd)

- a) Financial assistance (for Aid to the Aged, Blind or Disabled, Interim Assistance Aid to Families with Dependent Children, and General Assistance) shall be authorized effective from the earlier of:
- 1) The date of decision on the current application; or
 - 2) Thirty days after the date of application provided the case is eligible on that date; or
 - 3) In the City of Chicago, if General Assistance (GA) is approved as a result of termination of Aid to Families With Dependent Children (AFDC) or Aid to the Aged, Blind or Disabled (AABD) assistance or deletion (AFDC only) for certain non-financial reasons (see 89 Ill. Adm. Code 102.70(f)), assistance shall be authorized with no gap if an application is filed within thirty (30) days of the notice of termination of AFDC or AABD or deletion (AFDC only).
- b) If the applicant is determined eligible for financial assistance, the notice (see Section 110.20) shall state the amount of financial assistance to be provided, and a statement of the reasons for any partial grant amounts. Partial grant amount is defined as the maximum grant that a family unit for whom application for public assistance was filed is eligible to receive, less any reductions resulting from the consideration.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

1) The heading of the Part: RIGHTS AND RESPONSIBILITIES

2) Code Citation: 89 Ill. Adm. Code 102

3) Section Number: . Proposed Action:

102.70

Amendment

4) Statutory Authority: Sections 11-4 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 11-4 and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements P.A. 86-885 which requires the Department to institute policies and procedures to facilitate the timely processing of reaplications for assistance. As part of our compliance with P.A. 86-885, this rulemaking extends from ten days to thirty days the time frame within which a parent participating in a strike may apply for General Assistance (in the City of Chicago) when found ineligible for AFDC or AABD. If the parent is eligible for General Assistance, he or she will receive assistance with no gap in benefits. Interested parties should also see 89 Ill. Adm. Code 110.30 which also appears in this issue of the Illinois Register.

6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No

7) Does this amendment contain an automatic repeal date?

Yes ☐ No ☒

8) Does this Proposed Amendment contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, 100 South Grand Avenue East,

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62762, (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 102

RIGHTS AND RESPONSIBILITIES

Section

- 102.1 Incorporation By Reference
102.10 Rights of Clients
102.20 Nondiscrimination
102.25 Grievance Rights of Clients
102.30 Confidentiality of Case Information
102.35 Case Records
102.40 Freedom of Choice
102.50 Reporting Change of Circumstances
102.60 Referral Requirements
102.63 Reporting Child Abuse/Neglect
102.66 Suitability of Home
102.70 Notice to Client
102.80 Right to Appeal
102.81 Continuation of Assistance Pending Appeal
102.82 Time Limit for Filing an Appeal
102.83 Examining Department Records
102.84 Child Care
102.90 Voluntary Repayment of Assistance
102.100 Excess Assistance (Recodified)
102.110 Recoupment of Overpayments (Recodified)
102.120 Correction of Underpayments
102.200 Recovery of Assistance
102.210 Estate Claims
102.220 Real Property Liens
102.230 Filing and Renewal of Liens
102.240 Foreclosure of Liens
102.250 Release of Liens
102.260 Personal Injury Claims
102.270 Convictions of Fraud - Eligibility
102.280 Single Conviction of Fraud - Administrative Review Board

AUTHORITY: Implementing Article XI and authorized by Sections 12-4.4 through 12-4.6 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 11-1 et seq., 12-4.4 through 12-4.6 and 12-13.)

SOURCE: Filed and effective December 31, 1977; peremptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978; amended at 2 Ill. Reg. 52, p. 462, December 23, 1978; peremptory

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10775, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 327, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 14704, effective September 13, 1985; amended at 9 Ill. Reg. 15912, effective October 4, 1985; amended at 10 Ill. Reg. 3981, effective February 22, 1986; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. _____, effective _____.

Section 102.70 Notice to Client

- a) Every applicant for assistance shall be sent or given a written notice of disposition of the application.
- b) Every recipient for assistance shall be sent or given a written notice whenever assistance is reduced or discontinued.
- c) Notices denying, reducing, or discontinuing assistance shall contain the following information:

- 1) A clear statement of the action being taken.
- 2) A clear statement of the reason for the action.
- 3) A reference to the statute, rule, or policy provision under the authority of which the action is taken.
- 4) A complete statement of the client's right to

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 102.70 Notice to Client (Cont'd)

appeal (see subsection (d) below and Sections 102.80 thru 102.82).

d) Timely Notice

- 1) All notices concerning local office reduction or discontinuance of assistance shall be "timely". They shall be mailed or given at least ten (10) calendar days prior to the date the reduction or discontinuance will occur, and shall inform the client that if the client files an appeal within ten (10) calendar days of the date of the notice, his assistance will be continued at its previous level, pending the results of the appeal unless the client specifically requests that the assistance benefits not be continued. The notice shall be dated with the date it is mailed or given. (Day one of the ten (10) day period is the day following the date on the notice. The date on a notice is the same date the notice is mailed.

2) Notices sent concerning reduction or

discontinuance of assistance by agency action initiated centrally may be either "timely" or "adequate", as defined by federal regulation.

e) Aid to Families With Dependent Children

- 1) Every recipient who makes a written request for a grant increase or a special authorization shall be sent or given written notice of the disposition of the request within 45 days of the date of the request.
- 2) Every recipient who makes a request for Special Assistance (89 Ill. Adm. Code 116.500) shall be sent or given a written notice of the disposition of the request within 5 working days of the date of the request.
- 3) Every recipient who makes a request for Emergency Assistance (89 Ill. Adm. Code 116.510) shall be sent or given written notice of the disposition of the request within one working day of the date of the request.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 102.70 Notice to Client (Cont'd)

- 4) Every recipient who makes a request for Hardship Assistance (89 Ill. Adm. Code 116.520) shall be sent or given written notice of the disposition of the request within 45 days of the date of the request.

f) A notice of intended cancellation or reduction of benefits is sent to an Aid to Families With Dependent Children (AFDC) or Aid to the Aged, Blind or Disabled (AABD) recipient, in the City of Chicago, whose assistance is discontinued or a person deleted from the assistance unit (AFDC only) for one of the following reasons:

1) AABD

no longer blind, disabled.

2) AFDC

A) no longer an eligible child in the home,

B) no longer incapacitated,

C) absent parent returned home,

D) no longer an unemployed parent,

E) stepparent's liability sufficient to meet need,

F) stepparent failed to verify income, or

G) parent participating in a strike who applies for General Assistance (GA) within ~~ten~~ ^{thirty} (30) days of the notice of termination or deletion (AFDC only) will be provided GA benefits with no gap in assistance if found eligible (see also 89 Ill. Adm. Code 110.30).

g) Food Stamp households shall be notified

- 1) If there is no change in benefits following submission of a change report form.

ILLINOIS RACING BOARD
NOTICE OF PROPOSED RULES

NOTICE OF PROPOSED AMENDMENT

Section 102.70 Notice to Client (Cont'd)

2) If food stamp benefits are being reduced or discontinued, the following additional information shall be included on the notice:

- A) the telephone number of the local Public Aid office;
- B) a statement indicating the household's liability for benefits received while waiting for a fair hearing decision, if the decision is adverse to the household; and
- C) a statement indicating the general availability of outside individuals or organizations providing free legal representation and the telephone number of those individuals or organizations.

3) A notice of approval shall be sent to eligible households by the 30th day following the date of application. If the household is found not eligible to participate, the notice of denial shall be sent by the 30th day following the date of application.

4) If the local office cannot act on an application by the 30th day because the case file is incomplete due to a household's delay, a notice of denial shall be sent on the 30th day. However, the household has an additional thirty days to complete the application. If the delay is caused by the local office, a notice of pending status shall be sent to the household by the 30th day.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

- 1) The Heading of the Part: Over/Under Rules
- 2) Code Citation: 11 Ill. Adm. Code 419
- 3) Section Numbers: 419.10
419.20
419.30
419.40
419.50
419.60
419.70
419.80
419.90
419.100
Proposed Action: New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1985, ch. 8, pars. 9(b), 15
- 5) A complete description of the subjects and issues involved: This rulemaking establishes the criteria that will be followed in the Over/Under wagering pool. It sets forth guidelines to ensure a uniform system which can be followed in all instances for this type of race.
- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rule (amendment, repealer) contain incorporation by reference? No.
- 9) Are there any other proposed amendments pending in this part? No.
- 10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures as a result of this rulemaking.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit written comments concerning this rulemaking. All comments should be addressed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

The Illinois Racing Board will consider all written comment it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 3, 1990
- B) Types of small businesses affected: No small businesses are affected.
- C) Reporting, bookkeeping or other procedures required for compliance: All recording, bookkeeping or other procedures which are required for compliance to this section is identical to those procedures already used for compliance to other sections of the Illinois Racing Board rules.
- D) Types of professional skills necessary for compliance: All professional skills needed for compliance are already utilized for other sections of the Illinois Racing Board rules.

The full text of the Proposed Rules begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

TITLE 11 ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 419

OVER/UNDER RULES

Section 419.10	Over/Under Wager
419.20	Determination and Publication of Over/Under Number
419.30	Pool Calculations
419.40	Dead Heats
419.50	Name and Notice
419.60	Sale of Tickets
419.70	Scratches
419.80	Cancellation of Races
419.90	Limitation on Multiple Wagers Does Not Apply
419.100	Minimum Wager

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1979, ch. 8, par. 37-9(b)).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

Section 419.10

Over/Under Wager

All Over/Under wagers combine the total of the program numbers of the official first, second and third place finishers in each of the three designated races on a single race program. If all three selections are correct the ticket shall be considered a winner. All Over/Under wagers shall be calculated in a pool entirely separate from all other wagering pools.

Section 419.20

Determination and Publication
of Over/Under Number

The Race Secretary shall establish a number, which, best represents a middle so as to split the over/under monies as close as possible in half.

An organization licensee shall cause to be published in the Official Daily program, in a prominent place, this number, which in all cases shall be 1/2 so as to eliminate any draws, ties, or pushes. (Example: 11-1/2 or 12-1/2, but in no instance 11 or 12).

Section 419.30

Pool Calculations

The Over/Under pari-mutuel pools shall be calculated as follows:

- a) Winner pool: The net amount in each pool shall be distributed equally to the holders of pari-mutuel tickets which correctly designate the most winning Over/Under combinations.
- b) In the event that there are less than three finishers in any one race, both "over" and "under" in that race shall be considered winners.

Section 419.40

Dead Heats

If a dead heat results in more than (three) horses paying "show" prices, that "leg" of the bet will have more than one total number. If all combinations of these numbers are "over", then the leg is "over". If all combinations of these numbers are "under", then the leg is "under". If at least one total number is "over" and another is "under" then the leg will be considered "over" and "under".

Section 419.50

Name and Notice

The organization licensee may give a different name to the Over/Under form of wagering but shall notify the Board of such choice of names. Each of the Over/Under races shall be clearly marked to indicate the type of wager.

Section 419.60

Sale of Tickets

No Over/Under ticket shall be sold, exchanged or cancelled after the close of wagering on the first Over/Under race.

Section 419.70

Scratches

If, prior to the start of the first of the three races designated for an Over/Under pool, a horse is scratched, a patrons ticket may be cancelled or exchanged by the purchaser. However, in no instance shall a cancellation or exchange be permitted after the start of the first race which comprises the Over/Under wagering pool.

Section 419.80

Cancellation of Races

- a) Two or more: If the stewards cancel or declare as no contest two or more of the Over/Under races, all Over/Under tickets for that pool shall be refunded and the Over/Under cancelled.
- b) If one of the Over/Under races is cancelled or declared as no contest, both over and under in that race shall be considered winners.

Section 419.90

Limitation on Multiple Wagers Does Not Apply

The provision of Section 405.170 which limits the number of multiple wagering races shall not prevent and organization licensee from implementing the Over/Under.

Section 419.100

Minimum Wager Accepted

The minimum wager for the Over/Under shall not be less than \$10.00.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

1) The Heading of the Part: Supertrifecta Rules2) Code Citation: 11 Ill. Adm. Code 421

3) Section Number:

421.10	Proposed Action:
421.20	New Section
421.30	New Section
421.40	New Section
421.50	New Section
421.60	New Section
421.70	New Section
421.80	New Section
421.90	New Section

4) Statutory Authority: Ill. Rev. Stat. 1985, ch. 8, pars. 9(b), 15

5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes the criteria that will be followed in the Supertrifecta wagering pool. It sets forth guidelines to ensure a uniform system which can be followed in all instances for this type of race.

6) Will this proposed rule replace an emergency rule currently in effect? No.7) Does this rulemaking contain an automatic repeal date? No.8) Does this proposed rule (amendment, repealer) contain incorporation by reference? No.9) Are there any other proposed amendments pending in this part? No.10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures as a result of this rulemaking.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit written comments concerning this rulemaking. All comments should be addressed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 5, 1990
- B) Types of small businesses affected: No small businesses are affected.
- C) Reporting, bookkeeping or other procedures required for compliance: All recording, bookkeeping or other procedures which are required for compliance to this section is identical to those procedures already used for compliance to other sections of the Illinois Racing Board rules.
- D) Types of professional skills necessary for compliance: All professional skills needed for compliance are already utilized for other sections of the Illinois Racing Board Rules.

The full text of the Proposed Rules begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 421

SUPERTRIFECTA RULES

Section

- 421.10 Supertrifecta Wager
- 421.20 Trifecta Rules Shall Apply
- 421.30 Pool Calculations
- 421.40 Distribution of Daily Net Pool
- 421.50 Carryover Pool
- 421.60 Minimum Field
- 421.70 Scratches
- 421.80 Cancellation of Races
- 421.60 Dead Heats

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1979, ch. 8, par. 37-9(b)).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.)

Section 421.10 Supertrifecta Wager

A Supertrifecta wager requires the selection of the first three finishers in exact order in one designated race, and the first four finishers in exact order in a second designated race. The Supertrifecta pool shall be calculated in a pool entirely separate from all other wagering pools.

Section 421.20 Trifecta Rules Shall Apply

Unless expressly noted herein, all rules and regulations related to trifecta wagering shall apply to the Supertrifecta wager.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

Section 421.30 Pool Calculations

Commissions shall be deducted from the daily Supertrifecta pool in accordance with state law for wagers involving three or more betting interests. The balance of the pool, following commission deductions, shall be known as the daily net supertrifecta pool.

Section 421.40 Distribution of Daily Net Pool

- a) Fifty per cent (50%) of the daily net pool, excluding any carryover pool, shall be distributed to holders of tickets which correctly select the first three finishers of the first Supertrifecta race.
- b) Fifty per cent (50%) of the daily net pool, plus any carryover pool, shall be distributed to holders of tickets which correctly designate both the first three finishers of the first Supertrifecta race and the first four finishers of the second Supertrifecta race.
- c) If no tickets are sold which correctly select the finishers of both Supertrifecta races, fifty per cent (50%) of the daily net pool shall be carried over to the next race program and combined with the net Supertrifecta pool for said program and added to any accumulated carryover pool.

- d) Fifty per cent (50%) of the daily net pool shall be carried over in this fashion each program until at least one ticket is sold which correctly selects the finishers of both races of the Supertrifecta or until a mandatory distribution is ordered.

Section 421.50 Carryover Pool

The Supertrifecta carryover pool may be transferred from one racing meet to another if it is the same breed of racing at the same racetrack and provided that there is a time period of not more than ten days from the close of one organization's meet to the start of the next organization's meet.

A mandatory distribution of the carryover pool shall occur on the last day of the organization's meet, unless the organization elects to continue the carryover pool pursuant to the above paragraph, or upon order of the Executive Director. In the event a mandatory distribution occurs and no ticket is sold which correctly selects both races of the Supertrifecta, the winner of the carryover pool shall be the holders of tickets which correctly select the most consecutive finishers in the winning combination starting with the winner of the first Supertrifecta race.

Section 421.60 Minimum Field

The second race of the Supertrifecta shall have at least nine betting interests, except in the event of a late scratch, in which case the Supertrifecta shall be permitted if eight betting interests start.

Section 421.70 Scratches

If a runner is scratched from either race of the Supertrifecta prior to the start of the first Supertrifecta race, then all tickets sold on the scratched runner shall be refunded.

If a runner is scratched in the second Supertrifecta race after the running of the first Supertrifecta race, then holders of the tickets correctly selecting the first three finishers of the first race shall share in fifty per cent (50%) of the daily net pool, excluding any carryover pool, and shall receive a refund for those tickets which include scratched runner in the second Supertrifecta race.

Section 421.80 Cancellation of Races

In the event that racing is cancelled for any reason prior to the running of the first Supertrifecta race, one hundred per cent (100%) of the daily net pool shall be distributed to holders of tickets correctly selecting the first three finishers of the first Supertrifecta race. The carry over pool shall remain undistributed and shall be added to the next Supertrifecta.

Section 421.90 Dead Heats

In the event of a dead heat in either the first or second Supertrifecta race, all Supertrifecta tickets with the correct order of finish, counting any runner in a dead heat as finishing in any position dead-heated, shall be a winning ticket and, contrary to usual practice, the aggregated number of winning tickets shall be divided into the net pool and be paid the same pay-off price.

SECRETARY OF STATE

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of Part: Mandatory Vehicle Liability Insurance
- 2) Code Citation: 50 Ill. Adm. Code 8010
- 3) Section Number
8010.20 Proposed Action
8010.30 Amendment
8010.80 New Section
- 4) Statutory Authority: Implementing and authorized by the Article VI of the Illinois Safety Responsibility Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 7-601 et seq.)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends our rules dealing with mandatory motor vehicle insurance and adds a new section. The rulemaking was initiated to clarify when insurance cards are to be issued and to clarify some points regarding other evidence of insurance. The new section provides for an exemption for certain religious organizations from the Mandatory Insurance requirement.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking. Written comments may be submitted within 45 days to:

Robert B. Powers
Assistant Counsel to the Secretary
Office of the Secretary of State
298 Centennial Building
Springfield, Illinois 62706
217/785-3094

- 12) Initial Regulatory Flexibility Analysis: After careful consideration, the Secretary has determined that this rulemaking will have no effect on small business and this rulemaking has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

The full text of the proposed amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 50: INSURANCE
CHAPTER IV: SECRETARY OF STATEPART 8010
MANDATORY VEHICLE LIABILITY INSURANCE

Section

- 8010.10 Definitions
- 8010.20 Insurance Card Requirements
- 8010.30 Document Requirements for Other Evidence of Insurance
- 8010.40 Mandatory Vehicle Insurance Verification Form
- 8010.50 Insurance Company Verification
- 8010.60 Suspension Notices
- 8010.70 Termination of a Suspension for a Violation of the Mandatory Insurance Law
- 8010.80 Exemption for Certain Religious Organizations

AUTHORITY: Implementing and authorized by the Article VI of the Illinois Safety Responsibility Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 7-601 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 2952, effective February 7, 1990, amended at 14 Ill. Reg. _____, effective _____.

Section 8010.20 Insurance Card Requirements

- a) Pursuant to Section 7-602 of the Act, each insurance company which issues vehicle liability policies in Illinois shall issue an insurance card to the policy holder of the vehicle indicating the vehicle is insured. The insurance card shall be issued ~~with-the-policy-premium-notice-or-within-a-reasonable-amount-of-time-after-receipt-of-a-premium-payment~~ in conjunction with the issuance or renewal of the policy. Additional insurance cards shall be issued upon request by the named insured.
- b) In the case of motor vehicles registered in Illinois, the top of the front of the insurance card shall display the words "ILLINOIS INSURANCE CARD". The words "IDENTIFICATION" and "TEMPORARY" may also be displayed at the discretion of the issuing company.
- c) The insurance card shall contain the following vehicle information:
 - 1) the vehicle year,

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- 2) the vehicle make; and
- 3) either all or the last six (6) characters of the vehicle identification number (VIN). If the insurance card is issued for a fleet policy, it may state "FLEET" in lieu of vehicle years, makes, and VINs and if the card is issued with a non-owner policy, it may state "NON-OWNER POLICY" in lieu of the vehicle year, name and VIN.

- d) The insurance card shall contain the following insurance information:
 - 1) the name of the insured(s);
 - 2) the company name;
 - 3) the company code number assigned by the National Association of Insurance Commissioners;
 - 4) the policy number;
 - 5) the effective date and expiration date which shall cover a period of time not to exceed 12 months;
 - 6) a disclaimer as follows: "Examine policy exclusions carefully. This form does not constitute any part of your insurance policy"; and
 - 7) a warning of excluded drivers or vehicles, when applicable.
- e) The minimum size of the insurance card shall be 3" by 2½"; no maximum size is prescribed. A minimum twenty (20) pound paper stock is required. Except for the required disclaimer and any required warnings, the required information shall be displayed on the front of the card. Except for the disclaimer and warnings, the required information shall be displayed in a minimum eight (8) point upper case type.
- f) The insurance card may include other information at the discretion of the insurer.
- g) Insurance companies may allow authorized representatives to issue temporary insurance cards to satisfy the requirements of the Act. Temporary insurance cards are not required to have the policy number but shall contain all other required information.
- h) In the case of a motor vehicle registered in another state or jurisdiction, an insurance card or other evidence of insurance is valid if it complies with the laws of the state or jurisdiction.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 8010.30 Document Requirements for Other Evidence of Insurance

- a) If an insured owner has lost or has not yet received an insurance card from his/her insurance company, or is the resident of another state or jurisdiction other evidences of insurance may be carried in the vehicle for display to a law enforcement officer. These include but are not limited to the following:

- 1) A current policy declarations page or a photocopy thereof.
- 2) A certificate of insurance.
- 3) An insurance binder.
- 4) The combination of proof of purchase of the motor vehicle within the previous sixty (60) days and a current insurance card issued for the motor vehicle replaced by such purchase. Proof of purchase shall include but not be limited to the following items:
 - A) bill of sale;
 - B) purchase agreement;
 - C) installment contract;
 - D) copy of front and back of title; or
 - E) the registration identification card showing transfer information.
- 5) A receipt for payment of a current liability insurance premium.
- 6) Illinois Department of Revenue tax form.

- b) Except where noted, all information items listed are required on a binder, certificate of insurance, and a premium receipt for the document to qualify as evidence of insurance. The minimum requirements are:

- 1) company name;
- 2) policy number - not required on a binder or premium receipt;
- 3) effective date;
- 4) expiration date or number of days from the effective date;
- 5) name of insured(s);
- 6) vehicle year;
- 7) vehicle make;
- 8) either all or the last six characters of the vehicle identification number (VIN);
- 9) date of premium payment - required only on a receipt; and
- 10) signature of authorized representative.

- c) Documents issued with a fleet policy may state "FLEET" in lieu of vehicle years, makes and VIN's. Documents issued with a non-owner policy may state "NON-OWNER POLICY" in lieu of vehicle

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year, make and VIN.

(Source: Amended at 14 Ill. Reg. _____, effective _____)
 Section 8010.80 Exemption For Certain Religious Organizations

- a) In order to qualify for the exemption from the Mandatory Insurance requirement as specified in Section 7-609 of the Illinois Safety Responsibility Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 7-609), the religious organization shall submit the following to the Secretary of State:

- 1) evidence that it has paid or, by agreement with the other party or parties involved, are paying in a timely manner for all damages for which they were liable for over the past two years;
- 2) a letter of credit;
- 3) a complete description of each motor vehicle covered by the letter of credit including the make, model, year, vehicle identification number (V.I.N.) and the current Illinois registration plate number;
- 4) a complete listing of vehicle owners' drivers license numbers which corresponds to each vehicle covered by the letter of credit; and
- 5) the name of an individual or individuals who will serve as a designated organization representative in communication with this office. The listing shall include the representatives names, addresses and telephone numbers.

- b) The letter of credit shall be irrevocable and meet the criteria provided in Section 7-609 of the Act and shall guarantee coverage of \$20,000 and \$40,000 for bodily injury or death of one or more persons and \$15,000 for property damage for a combined single limit coverage per vehicle per accident of \$55,000. The amount of the letter of credit shall be issued in accordance with the following formula:

TABLE

Number of Vehicles	Letter of Credit Amount
1-99	\$110,000
100-149	\$165,000
150-199	\$220,000
200-249	\$275,000
250-299	\$330,000
300-349	\$385,000

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The scale shall continue at the progressive amounts of \$55,000 per each additional 50 vehicles.

c) The letter of credit shall name the financial institution issuing the letter of credit as the "issuer," the religious organization receiving the letter of credit as the "customer," and a licensed corporate trustee as the "beneficiary." The "beneficiary" shall, as a result of a court judgment or at the request of the customer, draw upon the letter of credit to compensate in the amount of the judgment any person or persons to whom the religious organization is liable for damages as the result of ownership, maintenance, use or operation of a motor vehicle.

d) Upon the granting of a religious organization exemption status, the Secretary of State shall issue a certificate of exemption for each motor vehicle covered by the letter of credit that shall serve as evidence of insurance in accordance with Section 7-602 of the Act. If at any time the exempted religious organization no longer meets the minimum requirements of this Section, the religious organization shall be required to return each certificate of exemption. Certificates of exemption which are lost, stolen or mutilated shall be reported to the Secretary of State for reissuance and the Secretary of State shall report all pertinent information to law enforcement.

e) Religious organizations requesting or submitting exemption status instructions, affirmation statement applications or any other related documents shall write or call:

Office of the Secretary of State
Mandatory Insurance Division
Springfield, Illinois 62756

(Source: Added at 14 Ill. Reg. _____, effective _____)

- 1) Heading of Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Numbers: 397.1000
397.1010
397.1020
Proposed Action: New Section
New Section
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).

5) A complete description of the subjects and issues involved:

By this Notice of Proposed Rules, the Department proposes to incorporate by reference 49 CFR 397 of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397). By this proposed rulemaking, the Department provides for the incorporation by reference of 49 CFR 397 as of February 15, 1990. While the Department has identified no changes to 49 CFR 397, it has undertaken this rulemaking to include this Part in 92 Ill. Adm. Code Chapter I, Subchapter d of the Motor Carrier Safety Regulations (MCSR) and to be consistent with the other Parts of the MCSR.

This Part prescribes the requirements for driving and parking for each motor carrier engaged in the transportation of hazardous materials by motor vehicle in Illinois.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part applies to local governmental agencies when the agency operates vehicles that are subject to Section 18b-100, et seq. of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100, et seq., as amended by P.A.

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86-611, effective September 1, 1989) or the Illinois Hazardous Materials Transportation Regulations (92 Ill. Adm. Code, Chapter I Subchapter c). This Part does not impose any additional burdens on units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to Section 18b-100 of the Law or the Illinois Hazardous Materials Transportation Regulations (92 Ill. Adm. Code, Chapter I, Subchapter c). This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements are required for compliance with this Part.
- D) Types of professional skills necessary for compliance: No

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new or additional professional skills are required for compliance with this Part.

The full text of the Proposed Rules begin on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION

CHAPTER 1: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER 4: MOTOR CARRIER SAFETY REGULATIONS

PART 397

DRIVING AND PARKING

Section

397.1000 General

397.1010 Application

397.1020 Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. _____, effective _____.

Section 397.1000 General

This Part prescribes the requirements for driving and parking for each motor carrier engaged in the transportation of hazardous materials by a motor vehicle in Illinois.

Section 397.1010 Application

- a) This Part applies to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- b) Each person designated in subsection (a) must know and obey the rules in this Part.

Section 397.1020 Incorporation By Reference of 49 CFR 397

- a) The Department incorporates "Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391,

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392, 393, 395, 396, and 397) that was in effect on February 15, 1990 subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated.

- b) Section 397.1 is deleted and not incorporated.
- c) Section 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

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- 1) Heading of Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Numbers:
- | | |
|-------------------------|----------|
| 397.1, 397.3, 397.5, | Repealed |
| 397.7, 397.9, 397.11, | Repealed |
| 397.13, 397.15, 397.17, | Repealed |
| 397.19, 397.21 | Repealed |
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat. 1983, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).

5) A complete description of the subjects and issues involved:

By this Notice of Proposed Repealer, the Department proposes to repeal Part 397 in its entirety, and elsewhere in this issue of the Illinois Register proposes to adopt new rules on Driving and Parking, Part 397, by incorporating 49 CFR 397 by reference as of February 15, 1990. Part 397 prescribes requirements as they apply to each motor carrier engaged in the transportation of hazardous materials by highway. For a more detailed explanation of the requirements contained in Part 397, please see the Notice of Proposed Rules for Part 397 published elsewhere in this issue.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The Department proposes to repeal existing Part 397 in its entirety, and elsewhere in this issue of the Illinois Register proposes to adopt new rules on Driving and Parking, Part 397, which will affect units of local government. See New Part 397 for an explanation of the effect of this Part on units of local government found elsewhere in this issue of the Illinois Register.

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11. Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Illinois Department of Transportation
Division of Traffic Safety
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

The Department proposes to repeal Part 397 in its entirety, and elsewhere in this issue of the Illinois Register proposes to adopt new rules on Driving and Parking, Part 397, which will have an effect on small businesses. Questions pertaining to the effect that the new rules will have on small businesses can be found in the Notice of Proposed Rules for Part 397 found elsewhere in this issue of the Illinois Register.

The full text of this Proposed Repealer begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 397

DRIVING AND PARKING

Section

- 397.1 Application of the Rules in This Part
- 397.3 State and Local Laws, Ordinances and Regulations
- 397.5 Attendance and Surveillance of Motor Vehicles
- 397.7 Parking
- 397.9 Routes
- 397.11 Fires
- 397.13 Smoking
- 397.15 Fueling
- 397.17 Tires
- 397.19 Instructions and Documents
- 397.21 Marking of Vehicles Operated by Private Carriers

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat. 1983, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397. Subchapter c at 14 Ill. Reg. 3281; repealed at 14 Ill. Reg. _____, effective _____.

(Editor's Note: Whenever a Subsection number or letter appears in brackets, that Subsection number or letter refers to the designation of that Subsection as it appears in the same Part and Section of Title 49 of the Code of Federal Regulations.)

Section 397.1 Application of the Rules in This Part

- a) The rules in this Part apply to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with 92 Ill. Adm. Code 177.823 and to:

- 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
- 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.

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- b) Each person designated in paragraph (a) of this Section must know and obey the rules in this Part.

(Source: Amended at 6 Ill. Reg. 4287, effective April 16, 1982)

Section 397.3 State and Local Laws, Ordinances and Regulations

Every motor vehicle containing hazardous materials must be driven and parked in compliance with the laws, ordinances and regulations of the jurisdiction in which it is being operated, unless they are inconsistent with specific regulations of the Department which are applicable to the operation of that vehicle.

Section 397.5 Attendance and Surveillance of Motor Vehicles

- a) Except as provided in paragraph (b) of this Section, a motor vehicle which contains Class A or Class B explosives must be attended at all times by its driver or a qualified representative of the motor carrier that operates it.

- b) The rules in paragraph (a) of this Section do not apply to a motor vehicle which contains Class A or Class B explosives if all of the following conditions exist:

- 1) The vehicle is located on the property of a motor carrier, on the property of a shipper or consignee of the explosives, in a safe haven or, in the case of a vehicle containing 50 pounds or less of either Class A or Class B explosives, on a construction or survey site; and
 - 2) The lawful bailee of the explosives is aware of the nature of the explosives the vehicle contains and has been instructed in the procedures he must follow in emergencies; and
 - 3) The vehicle is within the bailee's unobstructed field of view or is located in a safe haven.
- c) A motor vehicle which contains hazardous materials other than Class A or Class B explosives and which is located on a public street or highway or the shoulder of a public highway must be attended by its driver. However, the vehicle need not be attended while its driver is performing duties which are incident and necessary to his duties as the operator of the vehicle.
 - d) For purposes of this Section:

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- 1) A motor vehicle is attended when the person in charge of the vehicle is on the vehicle, awake, and not in a sleeper berth, or is within 100 feet of the vehicle and has it within his unobstructed field of view.
- 2) A qualified representative of a motor carrier is a person who:
 - A) [i] Has been designated by the carrier to attend the vehicle;
 - B) [ii] Is aware of the nature of the hazardous materials contained in the vehicle he attends;
 - C) [iii] Has been instructed in the procedures he must follow in emergencies; and
 - D) [iv] Is authorized to move the vehicle and has the means and ability to do so.
- 3) A safe haven is an area specifically approved in writing by local, State or Federal governmental authorities for the parking of unattended vehicles containing Class A or Class B explosives.
- e) The rules in this Section do not relieve a driver from any obligation imposed by law relating to the placing of warning devices when a motor vehicle is stopped on a public street or highway.

Section 397.7 Parking

- a) A motor vehicle which contains Class A or Class B explosives must not be parked:
 - 1) On or within 5 feet of the traveled portion of a public street or highway;
 - 2) On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains; or
 - 3) Within 300 feet of a bridge, tunnel, dwelling, building or place where people work, congregate or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.
- b) A motor vehicle which contains hazardous materials other than Class A or Class B explosives must not be parked on or within five feet of the traveled portion of a public street or highway except for brief periods when the

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necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

Section 397.9 Routes

- a) Unless there is no practicable alternative, a motor vehicle which contains hazardous materials must be operated over routes which do not go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys. Operating convenience is not a basis for determining whether it is practicable to operate a motor vehicle in accordance with this paragraph.
- b) Before a motor carrier requires or permits a motor vehicle containing Class A or Class B explosives to be operated, he must prepare a written plan of a route that complies with the rules in paragraph (a) of this Section for that vehicle and must furnish a copy of the written plan to the driver. However, the driver may prepare the written plan as agent for the motor carrier when the driver begins his trip at a location other than the carrier's terminal.

Section 397.11 Fires

- a) A motor vehicle containing hazardous materials must not be operated near an open fire unless its driver has first taken precautions to ascertain that the vehicle can safely pass the fire without stopping.
- b) A motor vehicle containing hazardous materials must not be parked within 300 feet of an open fire.

Section 397.13 Smoking

No person may smoke or carry a lighted cigarette, cigar or pipe on or within 25 feet of:

- a) A motor vehicle which contains explosives, oxidizing materials, or flammable materials; or
- b) An empty tank motor vehicle which has been used to transport flammable liquids or gases and which, when so used, was required to be marked or placarded in accordance with the rules in 92 Ill. Adm. Code 177.823.

Section 397.15 Fueling

When a motor vehicle which contains hazardous materials is being fueled:

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- a) Its engine must not be operating; and
- b) A person must be in control of the fueling process at the point where the fuel tank is filled.

Section 397.17 Tires

- a) If a motor vehicle which contains hazardous materials is equipped with dual tires on any axle, its driver must stop the vehicle in a safe location at least once during each 2 hours or 100 miles of travel, whichever is less, and must examine its tires. The driver must also examine the vehicle's tires at the beginning of each trip and each time the vehicle is parked.
- b) If, as the result of an examination pursuant to paragraph (a) of this Section, or otherwise, a tire is found to be flat, leaking, or improperly inflated, the driver must cause the tire to be repaired, replaced, or properly inflated before the vehicle is driven. However, the vehicle may be driven to the nearest safe place to perform the required repair, replacement or inflation.
- c) If, as the result of an examination pursuant to paragraph (a) of this Section, or otherwise, a tire is found to be overheated, the driver shall immediately cause the overheated tire to be removed and placed at a safe distance from the vehicle. The driver shall not operate the vehicle until the cause of the overheating is corrected.
- d) Compliance with the rules in this Section does not relieve a driver from the duty to comply with the rules in the Illinois Vehicle Code (111. Rev. Stat. 1983, ch. 95 1/2, pars. 1-100 et seq.).

Section 397.19 Instructions and Documents

- a) A motor carrier that transports Class A or Class B explosives must furnish the driver of each motor vehicle in which the explosives are transported with the following documents:
 - 1) A copy of the rules in this Part;
 - 2) A document containing instructions on procedures to be followed in the event of accident or delay. The documents must include the names and telephone numbers of persons (including representatives of carriers or shippers) to be contacted, the nature of the explosives being transported, and the precautions to be taken in emergencies such as fires, accidents, or

leakages.

- b) A driver who receives documents in accordance with paragraph (a) of this Section must sign a receipt for them. The Carrier shall retain the receipt in his files for 1 year.
- c) A driver of a motor vehicle which contains Class A or Class B explosives must have in his possession and be familiar with:
 - 1) The documents specified in paragraph (a) of this Section;
 - 2) The documents specified in 92 Ill. Adm. Code 127.817; and
 - 3) The written route plan specified in Section 397.9(b).

Section 397.21 Marking of Vehicles Operated by Private Carriers

- a) General. A motor vehicle being operated by a private carrier of property must be marked as specified in paragraphs (b) and (c) of this Section if that vehicle:
 - 1) Is transporting hazardous materials of a kind or quantity that require the vehicle to be marked or placarded in accordance with 92 Ill. Adm. Code 177.823, and
 - 2) Is operating under its own power, either alone or in combination.
- b) Nature of marking. The marking must display the following information:
 - 1) The name or trade name of the private carrier operating the vehicle.
 - 2) The city or community in which the carrier maintains its principal office or in which the vehicle is customarily based.
 - 3) If the name of a person other than the operating carrier appears on the vehicle, the words "operated by" immediately preceding the information required by subparagraphs (1) and (2) of this paragraph.

Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this paragraph.
- c) Size, shape, location, and color of marking. The marking must:
 - 1) Appear on both sides of the vehicle;

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- 2) Be in letters that contrast sharply in color with the background;
 - 3) Be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary; and
 - 4) Be kept and maintained in a manner that retains the legibility required by subparagraph (3) of this paragraph.
- The marking may consist of a removable device if that device meets the identification and legibility requirements of this Section.

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NOTICE OF PROPOSED RULES

- 1) Heading of Part: Driving of Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3) Section Numbers:

392.1000	New Section
392.2000	New Section
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95-1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

Proposed Action:

New Section
New Section

5) A complete description of the subjects and issues involved:

The requirements contained in "Driving of Motor Vehicles" (49 CFR 392) were adopted by the General Assembly in P.A. 86-611 (the Act), enacted September 1, 1989, to apply to all carriers, drivers and vehicles to which the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) apply. Additionally, the Act provided that FMCSR would apply to all intrastate carriers, drivers and the vehicles they operate when such vehicles are registered for a gross weight of 12,001 pounds or more, and are operated for the transportation of property and used in the furtherance of any commercial or industrial enterprise.

By this proposed rulemaking, the Department provides for the incorporation by reference of 49 CFR 392 as of February 15, 1990. While the Department has identified no changes to 49 CFR 392, it has undertaken this rulemaking to include this Part in 92 Ill. Adm. Code, Chapter I, Subchapter d which is titled the Motor Carrier Safety Regulations (MCSR) and to be consistent with other Parts of the MCSR.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to Sections 18b-100 et seq. of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989) This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements are required for compliance with this Part.
- D) Types of professional skills necessary for compliance:

No new or additional professional skills are required for compliance with this Part.

The full text of this Proposed Rule begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 392
 DRIVING OF MOTOR VEHICLES

Section
 392.1000 General

392.2000 Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

Section 392.1000 General

This Part prescribes the requirements for the management, maintenance, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers in Illinois.

Section 392.2000 Incorporation by Reference of 49 CFR 392

- a) "Driving of Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that were in effect on February 15, 1990. No later amendments to or editions of 49 CFR 392 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.

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NOTICE OF PROPOSED RULES

1) Heading of Part: Hours of Service of Drivers

2) Code Citation: 92 Ill. Adm. Code 395

3) Section Numbers: Proposed Action:

395.1000 New Section
 395.2000 New Section

4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

5) A complete description of the subjects and issues involved:

The requirements contained in "Hours of Service of Drivers" (49 CFR 395) were adopted by the General Assembly in P.A. 86-611 (the Act), effective September 1, 1989, to apply to all carriers, drivers and vehicles to which the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) apply. Additionally, the Act provided that the FMCSR would apply to all intrastate carriers, drivers and the vehicles they operate when such vehicles are registered for a gross weight of 12,001 pounds or more, and are operated for the transportation of property and are used in the furtherance of any commercial or industrial enterprise.

By this proposed rulemaking, the Department provides for the incorporation by reference of 49 CFR 395 as of February 15, 1990 so that all Parts included in 92 Ill. Adm. Code, Chapter 1, Subchapter d will have consistent effective dates.

In Section 395.2000(c), the Department provides for the exceptions to 49 CFR 395 that are cited in Section 18b-105 of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.

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9) Are there any other amendments pending on this Part? No
10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to Sections 18B-100 et seq. of the Law. This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements are required for compliance with this Part.
- D) Types of professional skills necessary for compliance: No new or additional professional skills are required for compliance with this Part.

The full text of this Proposed Rule begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 395
HOURS OF SERVICE OF DRIVERS

Section
395.1000 General
395.2000 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 395.1000 General

This Part prescribes the hours of service requirements for drivers of commercial motor vehicles in Illinois.

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that were in effect on February 15, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
 - 1) Section 395.8(1)(1) as it applies to intrastate carriers is amended to establish that DRIVERS SHALL OPERATE WITHIN A 200 AIR-MILE RADIUS OF THE NORMAL WORK REPORTING LOCATION TO QUALIFY FOR EXEMPT STATUS. (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 18b-105(d), as amended by P.A.

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- 2) 86-611, effective September 1, 1989)
Part 395 SHALL NOT APPLY TO AGRICULTURAL MOVEMENTS that are engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

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- 1) Heading of Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) Section Numbers:
- | | |
|----------|-------------------------|
| 396.1000 | <u>Proposed Action:</u> |
| 396.2000 | New Section |
| | New Section |
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

5) A complete description of the subjects and issues involved:

By this proposed rulemaking, the Department is establishing requirements for the inspection, repair and maintenance of commercial motor vehicles.

The Department proposes to incorporate by reference "Inspection, Repair and Maintenance" (49 CFR 396), at Section 396.2000, except as indicated in Section 396.2000(c), as of February 15, 1990.

The Department proposes to delete and not incorporate 49 CFR 396.9 since this section deals only with US DOT procedures for the inspection of vehicles.

The exceptions provided for in Section 396.2000(c)(2) and (3) were established in Section 18b-105 of Public Act 86-611.

Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1987, ch 95 1/2, par. 13-109) has complied with the periodic inspection procedures required by 49 CFR 396.17.

This proposed rule will incorporate changes to 49 CFR 396 as explained by US DOT in the following rulemaking docket printed in the Federal Register:

FHWA Docket MC-113 [54 FR 50722 (December 8, 1989)]

Docket MC-113 (December 8, 1989) - In this docket, FHWA delayed until July 1, 1990, the date by which compliance with the periodic inspection requirements for vehicles used in

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- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles engaged in interstate commerce subject to Sections 18b-100 et seq.

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of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). This Part has limited application to small businesses engaged in intrastate commerce. Intrastate carriers are exempt from the requirement for an annual periodic inspection, but are required to be inspected in accordance with Section 13-109 of the Code.

- C) Reporting, bookkeeping or other procedures required for compliance: A daily driver vehicle inspection report is required for motor carriers that operate vehicles in interstate commerce (refer to 49 CFR 396.11 for requirements). Vehicles engaged in intrastate commerce are exempt from 49 CFR 396.11.

Motor carriers engaged in interstate commerce are required to maintain a report for each vehicle's periodic inspection (refer to 49 CFR 396.21 for requirements). Vehicles engaged in intrastate commerce are exempt from the requirements of 49 CFR 396.21.

- D) Types of professional skills necessary for compliance:

A motor carrier engaged in interstate commerce is required to ensure the individual performing the periodic inspection meets certain "inspector qualifications" (refer to 49 CFR 396.19 for requirements).

Motor carriers engaged in intrastate commerce are exempt from 49 CFR 396.19.

The full text of this Proposed Rule begins on the next page:

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 396

INSPECTION, REPAIR AND MAINTENANCE

Section

396.1000 General

396.2000 Incorporation by Reference of 49 CFR 396

AUTHORITY: Implementing Section 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 396.1000 General

This Part prescribes the requirements for the inspection, repair and maintenance of commercial motor vehicles in Illinois.

Section 396.2000 Incorporation by References of 49 CFR 396

- a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on February 15, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.
 - 1) Section 396.9 is deleted and not incorporated.
 - 2) SECTION 396.11 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(3) of the Illinois Motor Carrier Safety Law (the Law) Ill. Rev. Stat. 1987, ch. 95 1/2, par. 18b-105(c)(3), as amended by P.A. 86-611, effective September 1, 1989))

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- 3) PARAGRAPHS (b) AND (c) OF SECTION 396.13 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(4) of the Law)
- 4) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Code has complied with the periodic inspection procedures required by section 396.17.

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- 1) Heading of Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3) Section Numbers:
- | | |
|----------|-------------|
| 390.1000 | New Section |
| 390.1010 | New Section |
| 390.1020 | New Section |
| 390.1030 | New Section |
| 390.2000 | New Section |
| 390.2010 | New Section |
- Proposed Action:
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).
- 5) A complete description of the subjects and issues involved:

By this rulemaking, the Department proposes to establish the general application and general requirements of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). This proposed rulemaking also establishes definitions and information necessary to implement the provisions of the Law.

Section 390.1010 identifies the persons to whom 92 Ill. Adm. Code, Chapter I, Subchapter d applies, and identifies instances in which 92 Ill. Adm. Code, Chapter I, Subchapter d does not apply.

In Section 390.1020, the Department has assembled definitions necessary for an understanding of 92 Ill. Adm. Code, Chapter I, Subchapter d. These definitions have been adopted from 49 CFR 390.5 or Sections 1-101 et seq. of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 1-101 et seq.) or Section 18b-101 of the Law where appropriate except for the following:

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, any political subdivision of a State, or any agency established under a compact between States approved by the Congress of the United States.

NOTICE OF PROPOSED RULES

"Motor Carrier Safety Regulations" (MCSR) means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397, 92 Ill. Adm. Code, Chapter I, Subchapter d. All parts referenced herein are being proposed in this same issue of the Illinois Register.

"School Bus Operation" means the use of a school bus for the transportation of school children and school personnel to and from school and for sanctioned school functions when only intrastate transportation is involved.

"Secretary" means the Secretary of the Illinois Department of Transportation.

At Section 390.1030, the Department is proposing to establish the rules of construction used in the Federal Motor Carrier Safety Regulations found at 49 CFR 390.7.

At Section 390.2000, the Department proposes to incorporate by reference 49 CFR 390, Subpart B as of February 15, 1990. This will provide consistency with other parts of the MCSR.

At Section 390.2010, the Department provides for exceptions from hours-of-service requirements during times of disasters.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes, these conform to 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

NOTICE OF PROPOSED RULES

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to the Law. This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements are required for compliance with this Part.
- D) Types of professional skills necessary for compliance: No new or additional professional skills are required for compliance with this Part.

The full text of this Proposed Rule begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390

MOTOR CARRIER SAFETY REGULATIONS: GENERAL

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section

390.1000 Purpose

390.1010 General Applicability

390.1020 Definitions

390.1030 Rules of Construction

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

390.2000 Incorporation by Reference of 49 CFR 390, Subpart B

390.2010 Exception from Hours-of-Service Requirements-Disasters

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). The Motor Carrier Safety Regulations (MCSR) consist of 92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397.

Section 390.1010 General Applicability

- a) All Parts of the MCSR except for "Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:
 - 1) All employers, employees and commercial motor vehicles which transport property or passengers

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in interstate commerce subject to applicable parts of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396 and 397); and

- 2) INTRASTATE CARRIERS, DRIVERS AND THE VEHICLES THEY OPERATE WHEN THE VEHICLES ARE REGISTERED FOR A GROSS WEIGHT OF 12,001 POUNDS OR MORE, ARE OPERATED FOR THE TRANSPORTATION OF PROPERTY AND USED IN THE FURTHERANCE OF ANY COMMERCIAL OR INDUSTRIAL ENTERPRISE, WHETHER FOR HIRE OR NOT-FOR-HIRE.

(Section 18b-106 of the Law)

- b) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:

- 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
- 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- c) Each person designated in subsection (b) must know and obey all requirements of the MCSR.
- d) Nothing in the MCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

- e) The MCSR requires knowledge of and compliance with the following:

- 1) Every employer shall be knowledgeable of and comply with all requirements contained in the MCSR which are applicable to that motor carrier's operations.
- 2) Every driver and employee shall comply with all applicable requirements contained in the MCSR and shall be instructed accordingly.
- 3) All motor vehicle's equipment and accessories required by the MCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the MCSR.

- f) Unless otherwise specifically provided, the requirements in the MCSR do not apply to:

- 1) All school bus operations as defined in Section 390.1020;
- 2) Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States. The accident reporting require-

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- ments of "Notification and Reporting of Accidents" (49 CFR 394), remain applicable to the entities identified in this subsection when engaged in the interstate charter transportation of passengers. The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- 4) The transportation of human corpses or sick and injured persons;
 - 5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations; and
 - 6) The private transportation of passengers.

Section 390.1020 Definitions

The following definitions apply to all Parts in the MCSR unless a specific Part expressly defines a term different than what is used below:

"Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 millimeters of blood or grams of alcohol per 210 liters of breath. "Federal Motor Carrier Safety Regulations: General" (49 CFR 390.5, August 1, 1989)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, August 1, 1989)

"BUSINESS DISTRICT" MEANS THE TERRITORY CONTIGUOUS TO AND INCLUDING A HIGHWAY WHEN WITHIN ANY 600 FEET ALONG SUCH HIGHWAY THERE ARE BUILDINGS IN USE FOR BUSINESS OR INDUSTRIAL PURPOSES, INCLUDING BUT NOT LIMITED TO, HOTELS, BANKS, OR OFFICE BUILDINGS WHICH OCCUPY AT LEAST 300 FEET OF FRONTAGE ON ONE SIDE OR 300 FEET COLLECTIVELY ON BOTH SIDES OF THE HIGHWAY. (Section 1-108 of the Illinois Vehicle Code (the Code)(Ill. Rev Stat. 1987, ch. 95 1/2, par. 1-108)).

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle, have acquired the exclusive use of the vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, August 1, 1989)

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"Code" means the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 1-100 et seq.)

"COMMERCE" MEANS TRADE, COMMERCE OR TRANSPORTATION WITHIN THE STATE. (Section 18b-101(1) of the Law)

"Commercial Motor Vehicle (CMV)" means:

- a) ALL VEHICLES OPERATED IN INTRASTATE TRANSPORTATION REGISTERED FOR A GROSS WEIGHT OF 12,001 POUNDS OR MORE, ARE OPERATED FOR THE TRANSPORTATION OF PROPERTY AND USED IN THE FURTHERANCE OF ANY COMMERCIAL OR INDUSTRIAL ENTERPRISE, WHETHER FOR-HIRE OR NOT-FOR-HIRE. (Section 18b-106 of the Law)
- b) Any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:
 - 1) The vehicle has a gross vehicle weight rating of 10,001 or more pounds; or
 - 2) The vehicle is designed to transport more than 15 passengers, including the driver; or
 - 3) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary of the United States Department of Transportation under the Hazardous Materials Transportation Act. (49 CFR 390.5, August 1, 1989)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, August 1, 1989)

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF TRANSPORTATION. (Section 18b-106 of the Law)

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while

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the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51(b)(2)(A) or (B)) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, August 1, 1989)

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, August 1, 1989)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, August 1, 1989)

"Employee" means:

- a) A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);
- b) A mechanic;
- c) A freight handler; and
- d) Any individual, other than an employee, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, August 1, 1989)

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, any political subdivision of a State, or any agency established under a compact between States approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality

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described by the Interstate Commerce Commission (ICC) in "Commercial Zones" (49 CFR 1048), revised as of October 1, 1975. The descriptions are printed in Appendix F to the Motor Carrier Safety Regulations. A driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, August 1, 1989)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the ICC under "Miscellaneous Motor Carrier Transportation Exemptions" (49 U.S.C. 10526). "Exempt motor carriers" are subject to the requirements set forth in the Motor Carrier Safety Regulations. (49 CFR 390.5, August 1, 1989)

"Farm-to-market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who:

- a) Is a private motor carrier of property;
- b) Is using the vehicle to transport agricultural products from a farm owned by the farmer, or to transport farm machinery or farm supplies to or from a farm owned by the farmer; and
- c) Is not using the vehicle to transport hazardous materials of a type or quantity that require the vehicle to be placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823), October 1, 1988. (49 CFR 390.5, August 1, 1989)

"Farm vehicle driver" means a person who drives only a motor vehicle that is --

- a) Controlled and operated by a farmer as a private motor carrier of property;
- b) Being used to transport either --
 - 1) Agricultural products, or
 - 2) Farm machinery, farm supplies, or both, to or from a farm;
- c) Not being used in the operation of a for-hire motor carrier;
- d) Not carrying hazardous materials of a type or quantity that required the vehicle to be placarded in accordance with 49 CFR 177.823; and

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- e) Being used within 150 air-miles of the farmer's farm. (49 CFR 390.5, August 1, 1989)

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

- a) Are owned by that person; or
b) Are under the direct control of that person. (49 CFR 390.5, August 1, 1989)

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, August 1, 1989)

"FOR-HIRE" MEANS THE OPERATION OF A VEHICLE FOR COMPENSATION AND SUBJECT TO FEDERAL REGULATION BY THE INTERSTATE COMMERCE COMMISSION OR TO STATE REGULATION BY THE ILLINOIS COMMERCE COMMISSION (Section 1-124 of the Code).

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, August 1, 1989)

"Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the CVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, August 1, 1989)

"Cross Vehicle Weight Rating (CVWR)" means the value specified by the manufacturer as the loaded weight of a single vehicle. (49 CFR 390.5, August 1, 1989)

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, August 1, 1989)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in the

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"Hazardous Materials Table and Hazardous Materials Communications" (49 CFR 172.101) when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in 49 CFR 172.101. (49 CFR 390.5, August 1, 1989)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a State under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, August 1, 1989)

"Intermittent, casual, or occasional driver" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. The qualification of such a driver shall be determined and recorded in accordance with the provisions of 49 CFR 391.63 or 391.65, as applicable. (49 CFR 390.5, August 1, 1989)

"INTERSTATE COMMERCE" MEANS TRANSPORTATION BETWEEN TWO OR MORE STATES OR TRANSPORTATION ORIGINATING IN ONE STATE AND PASSING INTO OR THROUGH OTHER STATES FOR DELIVERY IN ANOTHER STATE, AND WHICH IS NOT INTRASTATE. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, August 1, 1989)

"Law" means the Illinois Motor Carrier Safety Law. (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989)

"Motor carrier" means a for-hire motor carrier or a private motor carrier of property. The term "motor

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carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the MCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, August 1, 1989)

"Motor Carrier Safety Regulations (MCSR)" means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code, Chapter I, Subchapter d).

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, August 1, 1989)

"Operator" -- see driver.

"Other terms" -- any other term used in the MCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the MCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, August 1, 1989)

"PERSON" MEANS ANY NATURAL PERSON OR INDIVIDUAL, GOVERNMENTAL BODY, FIRM, ASSOCIATION, PARTNERSHIP, COPARTNERSHIP, JOINT VENTURE, COMPANY, CORPORATION, JOINT STOCK COMPANY, TRUST, ESTATE OR ANY OTHER LEGAL ENTITY OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNS. (Section 18b-101(5) of the Law)

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, where records required by "Minimum Levels of Financial Responsibility for Motor Carriers" (49 CFR 387) and "Notification and Reporting of Accidents" (49 CFR 394) or "Qualification of Drivers" (49 CFR 391),

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"Hours of Service of Drivers" (49 CFR 395), and "Inspection, Repair and Maintenance" (49 CFR 396) will be maintained. Provisions in the MCSR are made for maintaining certain records at locations other than the principal place of business. (49 CFR 390.5, August 1, 1989)

"Private motor carrier of passengers" means a person who is engaged in an enterprise other than transportation, and provides transportation of passengers, by motor vehicle, that is within the scope of, and in the furtherance of that enterprise. (49 CFR 390.5, August 1, 1989)

"Private motor carrier of property" means a person who transports, by motor vehicle, property of which that person is the owner, lessee or bailee; such transportation being for the purpose of sale, lease, rent, bailment, or in the furtherance of any commercial enterprise other than transportation. (49 CFR 390.5, August 1, 1989)

"Regional Director" means the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States. (49 CFR 390.5, August 1, 1989)

"Regularly employed driver" means a driver who, in any period of seven consecutive days, is employed or used as a driver solely by a single motor carrier. (49 CFR 390.5, August 1, 1989)

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, August 1, 1989)

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of the United States Department of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home or from such schools to home. (49 CFR 390.5, August 1, 1989)

"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home and for

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intrastate sanctioned school functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Special agent" - See 49 CFR Appendix B to Subchapter B of Chapter III.

"State" means a State of the United States and the District of Columbia and includes a political subdivision of a State. (49 CFR 390.5, August 1, 1989)

"Trailer" includes:

- a) "Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, August 1, 1989)
- b) "Pole trailer" means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, August 1, 1989)
- c) "Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle. (49 CFR 390.5, August 1, 1989)

"Truck" means any self-propelled motor vehicle except a truck tractor, designed and/or used for the transportation of property. (49 CFR 390.5, August 1, 1989)

"Truck tractor" means a self-propelled motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, August 1, 1989)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, August 1, 1989)

"US DOT" means the United States Department of Transportation.

Section 390.1030 Rules of Construction

- a) In the MCSR unless the context requires otherwise:
 - 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular;
 - 3) Words imparting the masculine gender include the feminine; and
 - 4) Words imparting the present tense include the future tense. (49 CFR 390.7, August 1, 1989)
- b) In the MCSR:
 - 1) "Officer" includes any person authorized by law to perform the duties of the office;
 - 2) "Writing" includes printing and typewriting;
 - 3) "Shall" is used in an imperative sense;
 - 4) "Must" is used in an imperative sense;
 - 5) "Should" is used in a recommendatory sense;
 - 6) "May" is used in a permissive sense; and
 - 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, August 1, 1989)

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section 390.2000 Incorporation by Reference of 49 CFR 390, Subpart B

- a) 49 CFR 390, Subpart B is hereby incorporated by reference as that Subpart of the FMCSR was in effect on February 15, 1990, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, Subpart B are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 390, Subpart B shall apply for the purposes of this Subpart.
 - 1) 49 CFR 390.9 is deleted and not incorporated.
 - 2) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
 - 3) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code, Subchapter d, Chapter I.
 - 4) Any reference to a section in the incorporated material shall be read to refer to that Section in the MCSR.

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- 5) Any reference to "Part 325 of Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards." (49 CFR 325)
- 6) 49 CFR 390.23 applies only to commercial motor vehicles engaged in interstate commerce.

Section 390.2010 Exception from Hours-of-Service Requirements - Disasters

Any motor carrier operating vehicles in intrastate commerce directly engaged in relief operations or engaged in activities directly supporting relief operations to resolve disasters and emergency situations, may seek relief from the requirements of 92 Ill. Adm. Code 395.2000 regarding maximum driving and on-duty time by requesting that the Governor declare an emergency pursuant to Section 8 of the Illinois Emergency Services and Disaster Agency Act of 1975 (Ill. Rev. Stat. 1987, ch. 127, par. 1108).

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- 1) Heading of Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Ill. Adm. Code 393
- 3) Section Numbers: 393.1000
393.2000
Proposed Action:
New Section
New Section
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).
- 5) A complete description of the subjects and issues involved:
By this proposed rulemaking, the Department is prescribing requirements for the parts and accessories of commercial motor vehicles. The Department proposes to incorporate by reference "Parts and Accessories Necessary for Safe Operation" (49 CFR 393), as of February 15, 1990, with the following two exceptions:
 - 1) In Section 393.2000(c)(1), the Department proposes language as an exception to 49 CFR 393 that is consistent with P.A. 86-611, effective September 1, 1989 (the Act).
 - 2) The exception proposed in Section 393.2000(c)(2) is based on statutory language found in the Act.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

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Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to Sections 18b-100 et seq. of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements are required for compliance with this Part.
- D) Types of professional skills necessary for compliance: No new or additional professional skills are required for compliance with this Part.

The full text of this Proposed Rule begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 393

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section 393.1000 General
393.2000 Incorporation by Reference of 49 CFR 393

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2 pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 393.1000 General

This Part prescribes the requirements for parts and accessories necessary for safe operation of a commercial motor vehicle in Illinois.

Section 393.2000 Incorporation by Reference of 49 CFR 393

- a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that were in effect on February 15, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.
- 1) SECTION 393.93 SHALL NOT APPLY TO THOSE COMMERCIAL MOTOR VEHICLES ENGAGED IN INTRASTATE COMMERCE WHICH WERE MANUFACTURED BEFORE JUNE 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 18b-105(c)(1), as amended by P.A. 86-611, effective September 1, 1989).

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- 2) SECTION 393.86 SHALL NOT APPLY FOR THOSE VEHICLES REGISTERED AS FARM TRUCKS UNDER SECTION 3-815(c) OF THE ILLINOIS VEHICLE CODE (the Code) (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 3-815(c)) AND UTILIZED IN INTRASTATE COMMERCE (Section 18b-105(c)(2) of the Law).

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- 1) Heading of Part: Procedures and Enforcement

- 2) Code Citation: 92 Ill. Adm. Code 386

- 3) Section Numbers: Proposed Action:

386.1000	386.1010	386.1020	New Section
386.1030	386.1040	386.1050	New Section
386.1060	386.1070	386.1080	New Section
386.1090	386.1100	386.1110	New Section
386.1120	386.1130	386.1140	New Section
386.1150	386.1160	386.1170	New Section
386.1180	386.1190	386.1200	New Section

- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

- 5) A complete description of the subjects and issues involved:

By this rulemaking, the Department proposes to establish formal procedures for a civil penalty process for violations of the Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). These procedures are based on criteria established by the General Assembly in the Law.

A respondent charged with violation of the Law is given the opportunity to meet with representatives of the Department for the purpose of resolving the alleged violation without undergoing a formal hearing. The respondent can request a formal hearing at any point in the process. The proposed rules provide for practice procedures for the formal hearing, for the designation of a hearing officer by the Secretary to preside over the hearing, for the content of the hearing officer's decision, and for an appeal procedure of the hearing officer's decision to the Secretary.

Procedures for examining the records of motor carriers, for placing vehicles out-of-service, for the content and service of notices and pleadings and for requesting the issuance of a subpoena are also provided in the proposed rule.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No

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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pendings on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to the Law. This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting requirements

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are required for compliance with this Part.

- D) Types of professional skills necessary for compliance: No new or additional professional skills are required for compliance with this Part.

The full text of this Proposed Rule begins on the next page:

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 386
PROCEDURES AND ENFORCEMENT

Section	Scope
386.1000	Definitions
386.1010	Service
386.1020	Subpoenas
386.1030	Responsibility for Enforcement
386.1040	Investigations
386.1050	Inspection of Records and Motor Vehicles
386.1060	Imminent Hazard
386.1070	Record of Inspection
386.1080	Warning Letter
386.1090	Civil Penalties Generally
386.1100	Maximum Penalties
386.1110	Commencement of Civil Penalty Proceeding
386.1120	Reply
386.1130	Payment of Penalty
386.1140	Request for Hearing
386.1150	Hearing
386.1160	Presiding Officer's Decision
386.1170	Assessment Considerations
386.1180	Appeal
386.1190	Willfull Violations
386.1200	

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 386.1000 Scope

This Part defines certain terms and prescribes procedures that are applicable to each proceeding described in this Part that are utilized by the Department in carrying out its duties under the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989) and describes the various enforcement authorities exercised by the Department and the

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associated sanctions, prescribes the procedures governing the exercise of those authorities and the imposing of those sanctions.

Section 386.1010 Definitions

As used in this Part:

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"State Police" means any individual officer of the Illinois State Police.

Section 386.1020 Service

- Each order, notice, or warning letter required to be served under this Part shall be served personally or by certified mail.
- Service upon a person's authorized representative constitutes service upon that person.
- Service by certified mail is complete upon mailing. An official United States Postal Service receipt from the certified mailing constitutes prima facie evidence of service.

Section 386.1030 Subpoenas

- The Secretary, or any individual whom he has designated to preside over a hearing convened in accordance with this Part, may sign and issue subpoenas either on his own initiative or, upon the request of any person participating in that proceeding where that person makes an adequate showing that the information sought will materially advance the proceeding.
- A subpoena may require the attendance of a witness or the production of relevant documentary or other tangible evidence in

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c) the possession or under the control of the person served, or both. Service of a subpoena upon the person named therein shall be made by:

- 1) delivering a copy of the subpoena to such person;
- 2) delivering a copy of a subpoena to a natural person by handing it to that person, leaving it at his or her office with the person in charge, leaving it at his dwelling place or usual place of abode with some adult person of suitable age and discretion who resides therein; or
- 3) mailing it by certified mail to the person at the person's last known address.

d) When the person to be served is not a natural person, delivery of a copy of the subpoena may be effected by:

- 1) handing it to a registered agent for service, or to any officer, director, or agent in charge of any office of the person; or
- 2) mailing it by certified mail to that representative at his last known address.

e) The original subpoena bearing a certificate of service shall be filed with the Department official having responsibility for the proceeding in connection with which the subpoena was issued.

f) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the presiding officer who issued the subpoena, or if he is unavailable, to the Secretary, to quash or modify the subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The Secretary, or the presiding officer (as designated under Section 386.1160(a)) may:

- 1) deny the application;
- 2) quash or modify the subpoena; or
- 3) condition denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. The denial may be summary.

g) If there is a refusal to obey a subpoena served upon any person under the provisions of this Section, the Department may request the Attorney General to seek the aid of the Circuit Court or any court of competent jurisdiction in which the person is found, to compel that person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the Department, or both.

Section 386.1040 Responsibility for Enforcement

RESPONSIBILITY FOR ENFORCEMENT OF THIS PART IS EXERCISED BY:

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- a) THE ILLINOIS DEPARTMENT OF TRANSPORTATION; AND
- b) THE ILLINOIS STATE POLICE (the State Police) (Section 18b-102 of the Law).

Section 386.1050 Investigations

a) General

THE DEPARTMENT MAY CONDUCT INVESTIGATIONS (Section 18b-102(b) of the Law) relating to compliance by any person with any provision of these Motor Carrier Safety Regulations (MCSR) (92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397) and any order issued thereunder, or any court decree relating thereto.

b) Confidentiality

Information received in an investigation under this Section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential, but only to the extent that disclosure would:

- 1) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency;
- 2) interfere with pending administrative enforcement proceedings conducted by the Department;
- 3) deprive a person of a fair trial or an impartial hearing;
- 4) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
- 5) disclose unique or specialized investigative techniques other than those generally used and known;
- 6) endanger the life or physical safety of law enforcement personnel or any other person; or
- 7) obstruct an ongoing criminal investigation.

Section 386.1060 Inspection of Records and Motor Vehicles

- a) AUTHORIZED REPRESENTATIVES OF THE DEPARTMENT AND THE STATE POLICE, UPON PRESENTING CREDENTIALS, MAY ENTER A MOTOR CARRIER'S ESTABLISHED PLACE OF BUSINESS WITHOUT DELAY, INSPECT AND EXAMINE RECORDS OF MOTOR CARRIERS REQUIRED TO BE MAINTAINED UNDER THE MCSR TO DETERMINE COMPLIANCE WITH THE MCSR AND MAY ENTER A MOTOR CARRIER'S ESTABLISHED PLACE OF BUSINESS TO INSPECT AND EXAMINE THE MOTOR VEHICLES OF MOTOR CARRIERS SUBJECT TO THESE MCSR TO DETERMINE COMPLIANCE WITH THE MCSR. (Section 18b-102(c) of the Law)

b)

The motor carrier or a representative of the motor carrier shall be entitled to be present during an inspection conducted pursuant to this Section, however, the presence of the motor carrier or an authorized representative of the motor carrier is not a condition

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- c) precedent to such an inspection.
- d) Inspection conducted, pursuant to this Section, may be initiated at any time that business is being conducted or work is being performed, whether or not open to the public or when the motor carrier or a representative of the motor carrier other than a mere custodian or watchman, is present. The fact that a motor carrier or representative of the motor carrier leaves the premises after an inspection has been initiated shall not require the termination of the inspection.
- e) Any inspection conducted pursuant to this Section shall not continue for more than 24 hours after initiation.
- f) In the event information comes to the attention of the individuals conducting an inspection that may give rise to the necessity of obtaining a search warrant, and in the event steps are initiated for the procurement of a search warrant, the individuals conducting such inspection may take all necessary steps to secure the premises under inspection until the warrant application is acted upon by a judicial officer.
- g) No more than three inspections of a motor carrier may be conducted pursuant to this Section within any six month period except pursuant to a search warrant.
- h) Notwithstanding this limitation, nothing in this Section shall be construed to limit the authority of the State Police or the Department to respond to public complaints of violations of the MCSR or to inspect a commercial motor vehicle, and records thereon, operating on the highways of Illinois. For the purpose of this Section, a public complaint is one in which the complainant identifies himself or herself and sets forth, in writing, the specific basis for their complaint against the motor carrier.
- i) Nothing in this Section shall be construed to limit the authority of individuals, pursuant to this Section, to conduct searches of motor carriers pursuant to an issued and authorized search warrant.
- j) Whenever any motor carrier who, having been informed BY A PERSON AUTHORIZED TO MAKE INSPECTIONS AND EXAMINE RECORDS under this Section that that person desires to INSPECT RECORDS AND THE MOTOR CARRIER'S MOTOR VEHICLES as authorized by this Section, refuses either to produce for that person records required to be kept by the MCSR or to permit such AUTHORIZED PERSON TO MAKE AN INSPECTION OF MOTOR VEHICLES IN ACCORDANCE WITH THIS SECTION, the inspection shall be terminated or the inspection confined to areas concerning which no objection is raised. The representative shall endeavor to ascertain the reason for such refusal and shall immediately report the matter to the Director. If the Director desires to have an inspection and examination

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conducted, the Director may refer the matter to the Department's Office of Chief Counsel to take appropriate action, including issuance of a search warrant, if necessary. (Section 18b-102(c) of the Law)

Section 386.1070 Imminent Hazard

- a) Whenever it is determined that a violation of the MCSR poses an imminent hazard to safety, the Illinois State Police shall order a vehicle or employee operating such vehicle out of service. On making such an order, no restrictions shall be imposed on the employee beyond that required to abate the hazard. In this Section, "imminent hazard" means any condition of vehicle or employee which is likely to result in serious injury or death if not discontinued immediately. (49 CFR 386.72(b)(1))
- b) Upon the issuance of an order under subsection (a), the driver employee shall comply immediately with such order.
- c) On placing a vehicle out of service, the Illinois State Police shall prevent the further movement of the vehicle and shall tag the vehicle so as to place the vehicle out of service until such time as the imminent danger observed is abated.
- d) Whenever the State Police stops a vehicle and the driver or operator of the vehicle is able to properly abate the existing hazard, the vehicle shall be permitted to continue in service.

Section 386.1080 Record of Inspection

When any representative of the State of Illinois, responsible for enforcing the MCSR pursuant to Section 386.1040, has inspected driver records or a motor vehicle, the inspector shall provide to the driver or other representative of the carrier, a record of the inspection.

Section 386.1090 Warning Letter

- a) When the Department has reason to believe that a person is engaging in conduct which involves a violation of any provision of the MCSR, the Department may issue a warning letter which shall:
- 1) advise the person of the time, place and circumstances of the apparent violation;
 - 2) advise the person that a subsequent inspection may be conducted to ascertain whether the violation has been corrected; and
 - 3) warn the person not to repeat the violation in the future.
- b) The warning letter shall be served in the manner prescribed in

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Section 386.1020.

Section 386.1100 Civil Penalties Generally

When the Department has reason to believe that a person has committed an act which is a violation of any provision of the MCSR or a settlement agreement, it may conduct proceedings to assess and, if appropriate, compromise a civil penalty.

Section 386.1110 Maximum Penalties

A person who commits an act that is a violation of any of the MCSR is liable for a civil penalty of not more than \$5,000 for each violation. When the violation is a continuing one, each day of the violation constitutes a separate offense.

Section 386.1120 Commencement of Civil Penalty Proceeding

- a) The Department, by the Director or his authorized representative, begins a civil penalty proceeding by serving a Notice of Intent to Assess Civil Monetary Penalty, in accordance with Section 386.1020, on a person charging that person with having committed an act which is a violation of one or more provisions of these regulations or a settlement agreement.
- b) A Notice of Intent to Assess Civil Monetary Penalty issued under this Section shall include:
 - 1) notice of the provision(s) of the MCSR or settlement agreement which the respondent is believed to have violated;
 - 2) a brief description of the manner in which the respondent is believed to have violated the MCSR or settlement agreement;
 - 3) notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) notice of the amount of the civil penalty sought to be assessed by the Department;
 - 5) a description of the manner in which the respondent shall make payment in accordance with Section 386.1140 of any money to the State;
 - 6) a statement that the respondent may request a conference with the Department, by verbal or written request to the Director, to review and discuss the alleged violation and civil penalty, and of the procedures for requesting a conference; and
 - 7) a statement that if a settlement cannot be reached within 180 days, a Notice of Probable Violation will be

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served upon the respondent, and THE RESPONDENT WILL HAVE AN OPPORTUNITY FOR A HEARING as provided by Section 18b-107(b) of the Law and Section 386.1160.

- c) In the event that the Department and the respondent do not enter a settlement agreement following service of a Notice of Intent to Assess Civil Monetary Penalty, the Department by the Director shall serve a Notice of Probable Violation on the respondent.
- d) A Notice of Probable Violation issued under this Section includes:
 - 1) a statement of the provision(s) of the MCSR or of a settlement agreement which the respondent is believed to have violated;
 - 2) a statement of the factual allegations upon which the proposed civil penalty is being sought;
 - 3) notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) notice of the amount of the civil penalty sought to be assessed by the Department;
 - 5) a description of the manner in which the respondent shall make payment of any money to the State in accordance with Section 386.1140;
 - 6) a statement of respondent's right to request a hearing and the procedures for requesting a hearing in accordance with Section 386.1150; and
 - 7) a statement of respondent's right to appear at the hearing and to present relevant written or oral explanations, information and materials in answer to the allegations or in mitigation of the penalty.
- e) A settlement of a civil penalty proceeding may be effectuated at any time upon agreement of the parties, shall be reduced to writing by the Department and signed by the parties. Terms of the settlement may include a reduction in the amount of the proposed civil penalty, and may include training and procedural requirements agreed upon by the respondent and Department. Training and procedural requirements may be agreed upon to increase awareness of and compliance with the MCSR.

Section 386.1130 Reply

- a) Within 30 days of the service of a Notice of Probable Violation issued under Section 386.1020, the respondent may:
 - 1) pay the preliminary assessment as provided in Section 386.1140 and thereby close the case; or
 - 2) request a hearing as provided in Section 390.1150.
- b) The Director may extend the 30-day period for good cause shown.
- c) Failure of the respondent to reply by taking one of the two actions described in subsection (a) within the period provided

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constitutes a waiver of his right to appear and contest the allegations, and authorizes the Secretary, without further notice to the respondent, to find the facts to be as alleged in the Notice of Probable Violation and order the assessment of an appropriate civil penalty. The assessment shall be the same as the assessment stated in the Notice when the respondent fails to reply.

- d) An order entered against a respondent who fails to reply may be vacated by the Secretary upon good cause shown in a written motion filed within 30 days of service of the order. A motion to vacate must be accompanied by a request for hearing meeting the requirements of Section 386.1150. No further extension of this time for filing shall be granted.

Section 386.1140 Payment of Penalty

- a) Payment of a civil penalty should be made by certified check or money order payable to the "Treasurer of the State of Illinois" and sent to:

Director, Division of Traffic Safety
Illinois Department of Transportation
2300 South Dirksen Parkway,
Springfield, Illinois 62764.

- b) At any time after an order assessing a civil penalty is referred to the Attorney General for collection, the respondent may offer to compromise for a specific amount by submitting a certified check or money order for that amount to the Director who, with the consent of the Attorney General, may accept or reject it. If it is accepted, the respondent is notified in writing by the Director that the acceptance is in full settlement of the civil penalty for the violation.

Section 386.1150 Request for Hearing

- a) If a respondent elects to request a hearing, he shall submit a written request to the Director. The request must:
- 1) state the name and address of the respondent and of the person signing the request, if different from the respondent;
 - 2) state with respect to each allegation whether it is admitted or denied; and
 - 3) state the issues to be raised by the respondent at the hearing.
- b) After receiving a request for hearing which complies with the requirements of subsection (a), the Director shall request the Secretary to appoint a presiding officer. The designated

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- c) presiding officer schedules a hearing for the earliest practicable date.
The presiding officer may grant extensions of the time of the commencement of the hearing for good cause shown.

Section 386.1160 Hearing

- a) When a hearing is requested under Section 386.1150 the Secretary shall appoint a presiding officer to convene and preside over the hearing. To the extent practicable, the hearing will be held near the place where the alleged violation occurred or at a place convenient to the respondent, provided that all such hearings shall be in Illinois. Testimony by witness shall be given under oath and the hearing shall be recorded verbatim.
- b) The presiding officer may:
- 1) administer oaths and affirmations;
 - 2) issue subpoenas as provided by Section 386.1030;
 - 3) adopt procedures, including the submission of evidence in written form;
 - 4) take or cause depositions to be taken;
 - 5) rule on offers of proof and receive relevant evidence;
 - 6) examine witnesses at the hearing;
 - 7) convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;
 - 8) hold conferences for settlement, simplification of the issues or any other proper purpose; and
 - 9) take any other action authorized by or consistent with the provisions of this part pertaining to civil penalties and which may expedite the hearing or aid in the disposition of an issue raised therein.
- c) The Director, or his representative, has the burden of proving the facts alleged in the Notice of Probable Violation as may be necessary to fully inform the presiding officer as to the matter concerned.
- d) The respondent may appear and be heard on his own behalf or through counsel of his choice. The respondent or his counsel may offer relevant information including testimony which he believes should be considered in defense of the allegations or which may bear on the penalty to be assessed and conduct such cross-examination as may be required for a full disclosure of the facts.

Section 386.1170 Presiding Officer's Decision

- a) After consideration of the evidence of record, the presiding officer may dismiss the Notice of Probable Violation in whole or

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in part. If he does not dismiss it in whole, he will issue and serve on the respondent an order assessing a civil penalty. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law, and discretion.

- b) If, within 20 days after service of an order assessing a civil penalty, the respondent does not pay the civil penalty or file an appeal as provided in Section 386.1190, the case shall be referred to the Illinois Attorney General with a request that an action to collect the penalty be brought in the appropriate Circuit Court.

Section 386.1180 Assessment Considerations

In assessing a civil penalty under the provisions of this Part, the assessment is made only after considering:

- a) the nature and circumstances of the violation;
- b) the extent and gravity of the violation;
- c) the degree of the respondent's culpability;
- d) the respondent's history of prior offenses;
- e) the respondent's ability to pay; and
- f) the effect on the respondent's ability to continue in business.

Section 386.1190 Appeal

- a) Orders of dismissal and orders assessing civil penalties may be appealed to the Secretary. An appeal must be filed with 20 days of service of the presiding officer's order.
- b) The decision of the Secretary on appeal shall be made on the record of the hearing, including all pleadings and the decision of the officer who presided at the hearing. No new or additional evidence shall be considered by the Secretary without a positive showing by the party presenting such evidence that the evidence was not available or, through due diligence, could not have been made available at the hearing. At the discretion of the Secretary and upon reasonable notice of the parties oral argument may be had on appeal. Any party requesting oral argument must detail in his petition for appeal the reasons for the request for argument.
- c) If the Secretary affirms the assessment and the respondent does not pay the civil penalty within 35 days after service of the Secretary's decision on appeal and no complaint for administrative review has been filed, the case shall be referred to the Attorney General with a request that an action to collect the penalty be brought in the appropriate Circuit Court.
- d) Petition for appeal shall detail the assailed findings and be

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confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding. Petitions shall not exceed 10 pages in length, excluding a separate preface and summary of argument which shall not exceed three pages. A reply to the petition, if any, shall be filed within 20 days of receipt of the petition for appeal and shall meet requirements as to length and format.

- e) The filing of the petition shall stay the effect of the prior decision, order or requirement pending the determination of the appeal.

Section 386.1200 Willful Violations

WHENEVER IT APPEARS TO THE DEPARTMENT THAT A PERSON HAS ENGAGED OR IS ENGAGED IN ANY ACT OR PRACTICE CONSTITUTING A WILLFUL VIOLATION OF ANY PROVISION OF THE MCSR OR OF ANY SETTLEMENT AGREEMENT OR ORDER ISSUED THEREUNDER, THE SECRETARY MAY REQUEST THE ILLINOIS ATTORNEY GENERAL OR STATE'S ATTORNEY TO BRING AN ACTION IN THE APPROPRIATE CIRCUIT COURT FOR SUCH RELIEF AS IS AUTHORIZED BY THE LAW. (Section 18b-108 of the Law)

- 1) Heading of Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Numbers:
- | | |
|----------|-------------|
| 391.1000 | New Section |
| 391.2000 | New Section |
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).
- 5) A complete description of the subjects and issues involved:
- Public Act 86-611 (the Act) became effective on September 1, 1989. Pertinent provisions of the Act include:
- The incorporation by reference of certain parts of Title 49 of the Code of Federal Regulations (49 CFR) applicable to all carriers, drivers or vehicles subject to the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397);
 - The conditions under which the incorporated material of 49 CFR applies to carriers, drivers and vehicles engaged in intrastate transportation and specific exceptions applicable to intrastate commerce;
 - The authority of the Illinois Department of Transportation (the Department) to adopt rules to carry out the provisions of the Act.

By this proposed rulemaking, the Department is satisfying the legislative mandates of the Act by establishing rules that are necessary to carry out the provisions of the Act and by incorporating material by reference in order to ensure that the Illinois Motor Carrier Safety Regulations (MCSR) are identical in substance to the FMCSR.

"Qualification of Drivers" (49 CFR 391.2(c)) contains language that applies only to interstate transportation. Language established in Section 391.1000(b), the exception for farm vehicle operators engaged in intrastate transportation, is expressed in terms consistent with the Act.

Sections 391.2000(c)(1) and (c)(2) establish regulatory language to incorporate statutory provisions contained in the Act.

Section 391.2000(c)(3) provides for modification of the certificate of the medical examiner in those cases where the operator is qualified for the operation of a motor vehicle in intrastate transportation only because of the application of the exceptions identified in Section 391.2000(c)(2).

To carry out the provisions of the Act, it is necessary to establish rules that clarify the application of "Controlled Substance Testing" 49 CFR 391, Subpart H. This provision of the FMCSR was included in the Act. However, the wording of the Act lacks sufficient definition to permit its application in intrastate transportation. Therefore, the Department, in proposing Section 391.2000(c)(6) will modify the definition of "Commercial Motor Vehicle" to include identification of vehicles used in intrastate transportation that are subject to 49 CFR 391, Subpart H. By proposing Section 391.2000(c)(5), the Department removes any ambiguity in the FMCSR as to persons subject to the provisions of 49 CFR 391, Subpart H.

By proposing Section 391.2000(c)(8), the Department is establishing the requirement that its representatives be permitted to examine all records relating to the administration and results of controlled substance testing.

By proposing Section 391.2000(c)(10), the Department is establishing a schedule for motor carriers and operators engaged in intrastate commerce to implement a controlled substance testing program. This proposed rule requires motor carriers who are engaged in interstate transportation to comply with the schedule in 49 CFR 391.93 and to include any intrastate operators, required to be tested, in their established program not later than December 21, 1990.

By proposing Section 391.2000(c)(10)(D), the Department provides that motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce shall comply with controlled substance testing requirements effective December 21, 1990.

The Department proposes to incorporate by reference 49 CFR 391, with certain cited exceptions, as of February 15, 1990. A review of the federal regulations adopted between September

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1, 1989 and February 15, 1990 indicates that there are certain changes made by US DOT that affect portions of the regulations to be incorporated by reference. This proposed rulemaking does have the effect of making limited substantive changes in the regulations to bring Part 391 in line with the federal regulations. The following is a summary of the changes in the FMCSR which are included in this proposed rulemaking.

This proposed rule will incorporate changes to 49 CFR 391 as explained by US DOT in rulemaking dockets printed in the Federal Register.

FHWA Docket MC-116 [54 FR 39546 (September 27, 1989)]
 FHWA Docket MC-88-14 [54 FR 40782 (October 3, 1989)]
 FHWA Docket MC-116 [54 FR 46616 (November 6, 1989)]
 FHWA Docket MC-116 [55 FR 3546 (February 1, 1990)]

Docket MC-116 (September 27, 1989) - provided a technical amendment to controlled substance testing requirements as those requirements apply to any person for whom a foreign government contends that application of 49 CFR 391, Subpart H raises questions of compatibility with that country's laws or policies. In this technical amendment FHWA established January 1, 1991, as the earliest date for testing those persons.

Docket MC-88-14 (October 3, 1989) - established a change to 49 CFR 391.15(c)(2)(iv) that amended language related to driving offenses that could result in disqualification of drivers. In this amendment, the disqualifying offenses were changed from "leaving the scene of an accident which resulted in injury or death" to "leaving the scene of an accident while operating a commercial motor vehicle."

Docket MC-116 (November 6, 1989) - stated US DOT's policy regarding implementation of controlled substance testing requirements for motor carriers in view of a preliminary injunction enjoining FHWA from implementing random and certain mandatory post-accident testing programs for commercial vehicle operators. In this docket, FHWA has provided notice that requirements for random and certain mandatory post-accident testing have been deferred until further notice. The notice does emphasize that interstate carriers must implement pre-employment, periodic, reasonable cause and unjoined mandatory post-accident testing, as required.

The Department does not consider that deferral of requirements is in keeping with good administrative procedures and has,

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therefore, provided appropriate rulemakings to delete random and mandatory post-accident testing.

In Section 391.2000(c)(7) and (9), the Department has deleted references to random testings, and, by proposing Sections 391.2000(c)(11) and 391.2000(c)(12), the Department is eliminating the requirement for random testing as a part of a controlled substance testing program.

In Section 391.2000(c)(13), the Department has eliminated the requirement for mandatory post-accident testing but has substituted "for cause" post-accident testing.

Docket MC-116 (February 1, 1990) - amended the requirements for pre-employment and post-accident testing. It also sets forth interpretations and makes editorial changes and technical amendments to the final rule on controlled substance testing. The amendments were intended to make the provisions of the rule easier to implement, clearer to understand and more effective.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.

9) Are there any other amendments pendings on this Part? No

10) Statement of Statewide Policy Objectives: This Part does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

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By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to D.C.C.A.:
- B) Types of small businesses affected: This Part applies to small businesses that operate vehicles subject to Sections 18b-100 et seq. of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989). This Part does not impose any additional burdens on small businesses.
- C) Reporting, bookkeeping or other procedures required for compliance: Recordkeeping is required for compliance with this Part. The motor carrier shall retain information in the employee's qualification file. The motor carrier shall also maintain an annual summary of the records. Refer to 49 CFR 391.87 for specific requirements.
- D) Types of professional skills necessary for compliance:
An employee of the motor carrier shall be responsible for maintaining the carrier's recordkeeping duties as required in (12)(C) above.
- A medical review officer shall be retained or hired by the motor carrier to be the sole custodian of individual test results as required in (12)(C) above. A medical

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review officer is defined as "a licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders." (49 CFR 391.87(e))

The full text of the Proposed Rule begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER 1: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 391
QUALIFICATION OF DRIVERS

Section
391.1000 General
391.2000 Incorporation by Reference of 49 CFR 391

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18b-100 et seq., as amended by P.A. 86-611, effective September 1, 1989).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

Section 391.1000 General

- a) This Part establishes the minimum qualifications for persons who drive commercial motor vehicles.
- b) This Part does not apply to a farm vehicle driver, engaged in intrastate commerce, except a farm vehicle driver who drives an articulated (combination) vehicle that is registered for a gross weight of 12,001 pounds or more. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles, see "Qualification of Drivers" (49 CFR 391.67).)

Section 391.2000 Incorporation by Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that were in effect on February 15, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.

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- 1) Section 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- 2) Sections 391.41(b)(3) and (b)(10) do not apply to the operator of a commercial motor vehicle used in intrastate transportation, unless such driver has a record of accidents which would indicate a lack of ability to operate a vehicle in a safe manner, provided the operator, immediately prior to July 29, 1986, was eligible and licensed to operate a commercial motor vehicle; was engaged in operating such vehicle; became disqualified through the adoption of 49 CFR 391 on July 29, 1986, by reason of the application of sections 391.41(b)(3) or (b)(10) with respect to physical conditions existing at that time.
- 3) Section 391.43 is amended to add paragraph 391.43(f)(4) which reads as follows:
If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(2) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."
Section 391.69 is deleted and not incorporated.
Section 391.83(a) is modified to cause 49 CFR 391, Subpart H to apply to motor carriers and persons who operate a commercial motor vehicle, as defined in subsection (c)(6) in either interstate or intrastate commerce.
- 6) For the purposes of the application of 49 CFR 391, Subpart H, the definition of "Commercial Motor Vehicle" in Section 391.85 is not incorporated and the following definition is provided:
"Commercial Motor Vehicle" means any vehicle operated in intrastate commerce for the transportation of property in any commercial enterprise, for-hire or not-for-hire, with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more; or any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:
A) The vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; or

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- B) The vehicle is designed to transport more than 15 passengers, including the driver; or
- C) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the provisions of the Illinois Hazardous Materials Transportation Regulations (92 Ill. Adm. Code, Chapter I, Subchapter c).
- 7) Section 391.87(b)(2) is not incorporated and the following substituted therefor:
A motor carrier shall notify:
A driver of the results of a periodic or post-accident controlled substance test conducted under 49 CFR, Subpart II provided the results were positive. The driver will also be advised of what drug was discovered.
- 8) Section 391.87(f) is not incorporated and the following substituted therefor:
A motor carrier shall produce upon demand and shall permit the Illinois Department of Transportation or Administrator of the US DOT to examine all records related to the administration and results of controlled substance testing performed under this Part.
- 9) Section 391.87(g)(2) is not incorporated and the following substituted therefor:
The summary shall include at a minimum:
The number of controlled substance tests administered in each category (i.e., prequalification, periodic and reasonable cause).
- 10) The schedule established in Sections 391.93(b) and (c) for implementation of a controlled substance testing program is modified as follows:
A) The provisions of Section 391.93(b) apply only to motor carriers and operators of commercial motor vehicles engaged in interstate commerce.
B) The provisions of Section 391.93(c) apply only to motor carriers and operators of commercial vehicles engaged in interstate commerce.
C) Motor carriers subject to the provisions of Sections 391.93(b) and (c) shall include any driver who operates a commercial motor vehicle in interstate commerce in the carrier's controlled substance testing

- 11) Section 391.109 is deleted and not incorporated.
(54 FR 46616, effective November 6, 1989)
- 12) Section 391.111 is deleted and not incorporated.
(54 FR 46616, effective November 6, 1989)
- 13) Section 391.113(a) is not incorporated and the following substituted therefor:
A motor carrier shall require a driver to be tested for the use of controlled substances as soon as possible after a reportable accident but in no case later than 32 hours after the accident when:
A) There is any reasonable suspicion of drug usage;
B) There is any reasonable cause to believe a driver has been operating a vehicle under the influence of drugs; or
C) There is reasonable cause to believe the driver was at fault in the accident and that drug usage may have been a factor.
- D) Part 391, Subpart H shall apply to motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce effective December 21, 1990. (49 CFR 391.93)
- program not later than December 21, 1990.
(49 CFR 391.93)

BOARD OF HIGHER EDUCATION
NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Higher Education Cooperation Act
- 2) Code Citation: 23 Ill. Adm. Code 1010
- 3) Section Numbers:

<u>Adopted Action:</u>
New Section
Amendment
Repealer
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 144, pars. 281 et seq.
- 5) Effective Date of Rules: May 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporation by reference? No.
- 8) Date Filed in Agency's Principal Office: May 2, 1990
- 9) Notice of Proposal Published in Illinois Register: December 29, 1989, 13 Ill. Reg. 20203
- 10) Has JCAR issued a Statement of Objection to these rules? No.
- 11) Difference(s) between proposal and final version:

In Section 1010.40(a), the agency included two words that had been omitted, "Applicants for" and those words are shown as being stricken through, i.e., "~~Applicants for regional academic centers~~."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this rule replace an emergency rule currently in effect? Yes.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Rule:

These amendments allow the Board of Higher Education to initiate the grant process at any time that funds become available; reduce the present two-step proposal process to one step; reduce the amount of information which must be included in the proposal; make the proposal requirements identical for all applicants; eliminate the mandatory requirement that all grant funds must be expended in one year; and reduce the turn-around time between submission of grant proposals and distribution of grants.

BOARD OF HIGHER EDUCATION
NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding this adopted rule shall be directed to:

Carolyn Lorton, Assistant Director
Illinois Board of Higher Education
4 West Old Capitol Square, Room 500
Springfield, Illinois 62701
217/782-2551

The full text of the Adopted Amendments begins on the next page:

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1010

HIGHER EDUCATION COOPERATION ACT

Section

1010.10 Eligible Applicants

1010.20 Selection of Projects for Grants

1010.25 Grant Application Procedures

1010.30 Conditions and Administrative Responsibilities

1010.40 Grant Application Procedures (Repealed)

AUTHORITY: Implementing and authorized by the Higher Education Cooperation Act (Ill. Rev. Stat. 1987, ch. 144, pars. 281 et seq.).

SOURCE: Adopted April 15, 1976; rules repealed and new rules adopted at 6 Ill. Reg. 5527, effective April 14, 1982; codified at 8 Ill. Reg. 1452; amended at 9 Ill. Reg. 8146, effective May 16, 1985; amended at 12 Ill. Reg. 22180, effective December 12, 1988; emergency amendment at 13 Ill. Reg. 20390, effective December 13, 1989, for a maximum of 150 days; amended at 14 Ill. Reg. 7497, effective May 4, 1990.

Section 1010.25 Grant Application Procedures

- a) At any time that grant funds become available or that the Board has reason to believe that grant funds may become available, the Board shall notify in writing the chief executive officer of every public and nonpublic institution of higher education in the state of Illinois of the availability or projected availability of such funds. Such notice shall contain, at a minimum, the following information:

- 1) The deadline for the submission of applications, which deadline shall not be less than 45 days from the date of mailing of such notice; and
- 2) The date which such grants will be made and the deadline for the completion of grant projects, which deadline shall not be more than two years from the date of the grant.

- b) Grant proposals shall contain, at a minimum:

- 1) Synopsis;
- 2) Statement of goals and specific objectives consistent with Section 4 of the Higher Education Cooperation Act;
- 3) Detailed description of the proposed project, including activities, completion schedule, operating procedures and justification for funding.

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- 4) Evaluation procedures to determine the effectiveness of the project; and
 - 5) Budget by line item, which lines items shall include personal services, contractual services, commodities, equipment, telecommunications, travel and audit.
- c) Once grants are awarded by the Board, the Board shall notify each applicant in writing concerning its application.

- d) Application information may be obtained from and shall be submitted to:

HECA Grant Program
Illinois Board of Higher Education
500 Reisch Building
4 West Old Capitol Square
Springfield, Illinois 62701

(Source: Added at 14 Ill. Reg. 7497, effective May 4, 1990.)

Section 1010.30 Conditions and Administrative Responsibilities

- a) Non-Discrimination. No recipient shall discriminate on the basis of race, creed, sex, handicap, color, or national origin in the employment, training, or promotion of personnel or in the implementation of the program funded by the grant.
- b) Grant Period. Grants for Fiscal Year 1989 shall be for the period from July 1, 1988, through August 31, 1989, and grants for subsequent fiscal years shall be for a 12-month period which 12-month period shall be determined by the applicant/recipient, but which 12-month period must fall between July 1 of the fiscal year and August 31 of the following fiscal year. shall be for the period stated in the grant agreement but in no event for more than two years from the date of the grant.

- c) Unexpended Grant Funds. Any unexpended portion of the grant funds shall be refunded to the Board.

- d) Fund Transfers. The transfer of any funds from one line item to another set forth in the budget must be approved in advance by the staff of the Board if that transfer will be in excess of twenty percent (20%) of the particular line item from which the funds are to be transferred. Failure to obtain such approval means the grant recipient must refund to the Board all of the grant funds transferred in excess of the twenty percent ceiling.

- e) Record Keeping. All costs charged to the program shall be supported by properly executed payrolls, time records, invoices, contracts, and vouchers evidencing in proper detail the nature and propriety of the charges. Such records shall be kept separately from other documents and maintained for a period of three years after receipt of final payment.

- f) Evaluation and Audit Reports. Within ninety days of the end of the grant period, the recipient shall submit to the Board an evaluation of the project, and in addition, the recipient shall submit an audit report of expenditures prepared by an external auditor who

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is registered as a public accountant by the Illinois Department of Professional Regulation. The evaluation of the project shall include systematic and objective procedures for appraising the project with respect to how closely the purposes were fulfilled and an explanation of any deviation therefrom. Any recipient which fails to submit an audit shall refund the entire grant amount to the Board. Complete payment of grant funds for any continuing project shall be contingent upon submission of the evaluation and audit reports for the previous grant period.

- e) Contracts. All grants awarded under this program shall be made through contractual agreements between the Board and the recipient, not for-profit corporation or institution designated as the fiscal agent for the program. Such contracts shall be effective for the grant period. Such agreements shall comply with the provisions of the Grant Funds Recovery Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2301 et seq.).

(Source: Amended at 14 Ill. Reg. 7497, effective May 4, 1990)

Section 1010.40 Grant Application Procedures (Repealed)

- a) Applicants for regional academic centers shall submit the following materials by October 1 to be eligible for consideration for a grant in the forthcoming fiscal year:
- 1) Planning statements which include specific objectives for the application year enmeshed in terms of the mission, scope and purpose of the total program;
 - 2) Five year program schedule outlining plans and objectives for the years following the application year;
 - 3) Resource requirements for the current year and budget year as well as estimates for three future years;
 - 4) Evaluation report based upon the previous year's planning statements including objectives, and an audit report of the previous year's grant.

- b) Each applicant other than a regional academic center shall

- 1) Submit a preliminary proposal by the third Friday in November which includes:

- A) Synopsis;
- B) Statement of goals and specific objectives consistent with Section 4 of the Higher Education Cooperation Act;
- C) Description of proposed project including an outline of program design, the activities planned and a goal completion schedule;
- D) Estimated expenditures.

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- 2) Each applicant other than a regional academic center will be notified in writing as to whether its preliminary proposal has been accepted for further consideration approximately six weeks prior to the final proposal deadline. Upon request by the Board staff, selected applicants shall be requested in writing to provide the following additional information in the form of a final proposal to be postmarked by the fourth Thursday in April:

- A) Detailed description of the project, including the activities, completion schedule, and operating procedures;
- B) Justification for funding;
- C) Evaluation procedures that determine the effectiveness of the project;
- D) Budget by line item which includes personal services, contractual services, commodities, equipment, telecommunications, travel and audit.

- c) Once grants are awarded by the Board, each applicant will be notified in writing concerning its application.

- d) Application information may be obtained from and shall be submitted to:

HECA Grant Program
Illinois Board of Higher Education
500 Reich Building
4 West Old Capitol Square
Springfield, Illinois 62701

(Source: Repealed at 14 Ill. Reg. 7497, effective May 4, 1990)

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- 1) The Heading of the Part: Evaluation of Certified School District Employees in Contractual Continued Service
- 2) Code Citation: 23 Ill. Adm. Code 50
- 3) Section Number:
 50.10 Adopted Action:
 50.20 Amendment
 50.40 Amendment
 50.50 Amendment
 50.55 New Section
 50.60 Amendment
 50.70 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1988 Supp., ch. 122, par. 24A-1 et seq., as amended by P.A. 86-201.
- 5) Effective Date of Amendments: May 7, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference?
 The rules do not contain an incorporation by reference under Section 6.02 (b) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: April 30, 1990
- 9) Notice of Proposal Published in Illinois Register:
 December 8, 1989, 13 Ill. Reg. 18979
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No
- 11) Difference(s) between proposal and final version:
 Section 50.70(c)(1) was amended to state:
 c) Evaluation by the State Board of Education
 1) IN DISTRICTS WHERE A COLLECTIVELY BARGAINED PLAN ALREADY EXISTS, THAT PLAN SHALL BE USED TO EVALUATE THE TEACHERS IN THAT DISTRICT RATHER THAN USING THE EVALUATION PLAN DEVELOPED BY THE STATE BOARD OF EDUCATION UNLESS THE COLLECTIVELY

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- BARGAINED PLAN DOES NOT MEET THE REQUIREMENTS OF SECTIONS (A) THROUGH (D) OF SECTION 24A-5 (Section 24A-6 of The School Code).

Section 50.70 (c)(3) was amended to state:

- 3) IN CASES WHERE AN EVALUATION INSTRUMENT IS IN DISPUTE (e.g., in a grievance proceeding or a case pending before the Illinois Educational Labor Relations Board), THE STATE BOARD OF EDUCATION SHALL POSTPONE ITS EVALUATION UNTIL THE DISPUTE IS RESOLVED (Section 24A-6 of The School Code).

In addition, minor technical changes were made to comply with formatting requirements.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?
 Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment:

The Chicago reform legislation, P. A. 85-1418, accounts for most of the changes being made to Part 50. That Act established specific requirements for the contents of the Chicago school district's evaluation plan, mainly as regards remediation plans for teachers whose performance is judged unsatisfactory, and the various steps contained in those remediation plans. Since these stipulations do not apply to any other school districts, a new Section 50.55 has been added to cover them, and the existing Section 50.50 has been explicitly made applicable only to districts with a population of 500,000 or fewer. The changes made in Sections 50.10 (Definitions) and 50.40 (Content of Evaluation Plans for Teachers and School Service Personnel) are also attributable to the Chicago reform legislation.

Section 50.20 (Submission of Evaluation Plans) has been changed to reflect the provisions of P.A. 85-1163, which pertained to the submission of copies of evaluation plans to exclusive bargaining representatives. That Act also caused the insertion of additional language into Section 50.60, Multi-Year Collective Bargaining Agreements.

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Finally, passage of P.A. 86-201 during the 1989 session is reflected in the changes in Section 50.70, Alternative Evaluations. This legislation causes postponement of evaluation by the State Board in cases where a dispute exists as to the evaluation instrument to be used in carrying out the required evaluations of a district's staff.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan K. Bentz
Assistant Superintendent
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-3774

The full text of the Adopted Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 50

EVALUATION OF CERTIFIED SCHOOL DISTRICT EMPLOYEES
IN CONTRACTUAL CONTINUED SERVICE

Section

50.10 Definitions

50.20 Submission of Evaluation Plans

50.30 Review of Evaluation Plans

50.40 Content of Evaluation Plans for Teachers and School Service Personnel

50.50 Unsatisfactory Evaluations - Districts With a

Population of 500,000 or Fewer

50.55 Unsatisfactory Evaluations - Districts With a

Population Over 500,000

50.60 Multi-Year Collective Bargaining Agreements

50.70 Alternative Evaluations

50.80 Evaluation of Administrative Staff

AUTHORITY: Implementing Sections 2-3.57, 10-21.4a and Article 24A of The School Code (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 122, pars. 2-3.57, 10-21.4a and par. 24A-1 et seq., as amended by P.A. 86-201, effective January 1, 1990) and authorized by Section 24A-7 of that Act (Ill. Rev. Stat. 1987, ch. 122, par. 24A-7).

SOURCE: Adopted at 10 Ill. Reg. 15050, effective August 28, 1986; amended at 12 Ill. Reg. 9882, effective May 27, 1988; amended at 14 Ill. Reg. 7503, effective May 7, 1990.

NOTE: Capitalization denotes statutory language.

Section 50.10 Definitions

"Certified School District Employees" - refers to those professional employees of a school district who are required to hold a teaching, school service personnel, or administrative certificate issued in accordance with Article 21 or Section 94-83 of The School Code (Ill. Rev. Stat. 1985 1987, ch. 122, par. 21-1 et seq. 7-or par-34-83), and who are in contractual continued service as provided in Section 24-11 or 34-84 of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 24-11 or 34-84).

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"Consulting Teachers" - refers to those professional employees of a school district who are required to hold a teaching certificate issued in accordance with Article 21 or Section 34-83 of The School Code, excluding supervisory, managerial or administrative employees, and who meet the qualifications set forth in Section 24A-5(g) of The School Code (Ill. Rev. Stat. 1985 1988 Supp., ch. 122, par. 24A-5(g)).

"Evaluation Plan" - refers to a formal, written evaluation process which includes procedures by which a school board evaluates all certified personnel employed in a school district and which meets the requirements of Article 24A of The School Code (Ill. Rev. Stat. 1987, ch. 122, par. 24A-1 et seq.).

"Qualified Administrator" - refers to those professional employees who are required to hold a supervisory or administrative certificate in accordance with Article 21 or Section 34-83 of The School Code, and who have participated in an in-service workshop on evaluation of certified personnel in accordance with Section 24A-3 of The School Code (Ill. Rev. Stat. 1985 1988 Supp., ch. 122, par. 24A-3). In districts with a population over 500,000, this term includes assistant principals who are working under the supervision of an administrator qualified under Section 24A-3.

"School Boards" - refers to boards of education governing school districts in accordance with Articles 10, 32, 33 and 34 of The School Code (Ill. Rev. Stat. 1985 1987, ch. 122, par. 10-1 et seq., 32-1 et seq., 33-1 et seq., and 34-1 et seq.).

"Substantive change" - refers to any addition or deletion in the list of qualified administrators who shall conduct required evaluations or any changes in the procedures described in the evaluation Plan.

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990.)

Section 50.20 Submission of Evaluation Plans

- a) Each school district shall submit an evaluation plan, hereinafter called the Plan, for the evaluation of all certified school district employees in contractual

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continued service. Where cooperative educational programs operate between or among school districts or by Regional Superintendents of Schools, pursuant to Sections 3-15.14, 10-22.31 and/or 10-22.31a of The School Code (Ill. Rev. Stat. 1985 1987, ch. 122, pars. 3-15.14, 10-22.31, and 10-22.31a), the Plan shall be submitted by the administrative agent who is the fiscal and legal agent for the cooperative program, or the governing board, or the board of control of the entity. In this Part all such entities are included in the term "school district."

- b) ALL EVALUATION PLANS SHALL BE SUBMITTED TO THE STATE BOARD OF EDUCATION NO LATER THAN OCTOBER 1, 1986, AND THE DISTRICT SHALL AT THE SAME TIME PROVIDE A COPY TO THE EXCLUSIVE BARGAINING REPRESENTATIVES (Section 24A-4 of The School Code).

- c) WHENEVER ANY SUBSTANTIVE CHANGE IS MADE TO A PLAN, THE REVISED PLAN SHALL BE SUBMITTED TO THE STATE BOARD OF EDUCATION FOR REVIEW AND COMMENT, AND THE DISTRICT SHALL AT THE SAME TIME PROVIDE A COPY OF ANY SUCH REVISED PLAN TO THE EXCLUSIVE BARGAINING REPRESENTATIVES (Section 24A-4 of The School Code).

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990.)

Section 50.40 Content of Evaluation Plans for Teachers and School Service Personnel

- a) The Plan shall contain assurances that teachers were involved in the development of the Plan, or that where applicable, the Plan was developed in cooperation with the exclusive bargaining agent.
- b) THE PLAN SHALL CONTAIN A DESCRIPTION OF THE DUTIES AND RESPONSIBILITIES OF EACH TEACHER AND THE STANDARDS TO WHICH THE TEACHER IS EXPECTED TO CONFORM (Section 24A-5 of The School Code). These descriptions may be individualized or extend to a class of teachers.
- c) THE PLAN SHALL ASSURE THAT EACH TEACHER IS EVALUATED AT LEAST BIENNIALY BEGINNING WITH THE 1986-87 SCHOOL YEAR (Section 24A-5 of The School Code).
- d) The Plan shall assure that each teacher is evaluated through personal observation in the classroom by a

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qualified administrator unless the teacher has no classroom duties. In districts with a population over 500,000, such observation shall occur on at least two different school days.

- e) The Plan shall list the names of all qualified administrators.
- f) THE PLAN SHALL REQUIRE THAT EACH EVALUATION INCLUDE CONSIDERATION OF THE TEACHER'S ATTENDANCE, INSTRUCTIONAL PLANNING, INSTRUCTIONAL METHODS, CLASSROOM MANAGEMENT WHERE RELEVANT, AND COMPETENCY IN THE SUBJECT MATTER(S) TAUGHT WHERE RELEVANT (Section 24A-5 of The School Code) and/or services provided.
- g) THE PLAN SHALL PROVIDE FOR A RATING OF EACH TEACHER'S PERFORMANCE AS "EXCELLENT," "SATISFACTORY" OR "UNSATISFACTORY" (Section 24A-5 of The School Code) and shall define those terms.
- h) THE PLAN SHALL REQUIRE THAT EACH EVALUATION DESCRIBE THE TEACHER'S STRENGTHS AND WEAKNESSES, WITH SUPPORTING REASONS FOR THE COMMENTS MADE (Section 24A-5 of The School Code).
- i) THE PLAN SHALL REQUIRE THAT A COPY OF EACH TEACHER'S EVALUATION BE PLACED IN THAT TEACHER'S PERSONNEL FILE AND THAT THE TEACHER SHALL BE PROVIDED WITH A COPY OF THE EVALUATION (Section 24A-5 of The School Code).

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990)

Section 50.50 Unsatisfactory Evaluations - Districts With a Population of 500,000 or Fewer

- a) The Plan shall provide, within 30 calendar days after an evaluation has been reduced to writing resulting in a rating of unsatisfactory, for the development and initiation by the district of a remediation plan designed to correct the areas identified as unsatisfactory, provided the deficiencies are deemed remediable.

- 1) The remediation plan shall provide for quarterly evaluations and ratings to occur during the year immediately following the teacher's receipt of a

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remediation plan based upon an unsatisfactory evaluation.

- 2) The quarterly evaluations and ratings shall be conducted by a qualified administrator.
 - A) When a quarterly evaluation schedule requires an evaluation after the close of the school year, but on or before July 15, such evaluation shall be scheduled to occur no later than two (2) weeks prior to the close of the preceding school year.
 - B) When a quarterly evaluation schedule requires an evaluation after the close of the school year, but after July 15, such evaluation shall be scheduled to occur not later than two (2) weeks after students' attendance commences in the following school year.
 - C) Failure to strictly comply with the timelines for the required quarterly evaluations because of illness or certain leaves granted teachers under a remediation plan, for example, shall not invalidate the results of the remediation plan.
- 3) The qualified administrator shall conduct the fourth and final evaluation at the conclusion of the year specified in subsection (a)(1) of this Section.
- 4) THE REMEDIATION PLAN SHALL PROVIDE REINSTATEMENT TO A SCHEDULE OF BIENNIAL EVALUATIONS FOR ANY TEACHER WHO SUCCESSFULLY COMPLETES THE ONE-YEAR REMEDIATION PLAN BY RECEIVING A SATISFACTORY OR BETTER RATING, UNLESS THE DISTRICT'S PLAN REGULARLY REQUIRES MORE FREQUENT EVALUATIONS (Section 24A-5 of The School Code).
- b) Participants in the remediation plan shall include the teacher deemed unsatisfactory, a qualified administrator, and a consulting teacher. The remediation plan may include the participation of other personnel to assist in correcting areas identified as unsatisfactory.

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- 1) The participation of the consulting teacher shall be voluntary.
- 2) The qualified consulting teacher shall be one who has received a rating of excellent on his or her most recent evaluation, has a minimum of five years experience in teaching, and has knowledge relevant to the assignment of the teacher under remediation.
- 3) The consulting teacher shall be chosen from a list developed by the district or, in districts with an exclusive bargaining agent, the bargaining agent may, if it chooses, supply a roster of at least 5 qualified teachers from which the consulting teacher is to be selected, or the names of all teachers so qualified if that number is less than 5. The participating administrator or principal of the teacher who was rated "unsatisfactory" shall select the consulting teacher.
- 4) Where no consulting teacher is available in a district, the district shall request the State Board of Education to provide a consulting teacher. The State Board of Education shall thereupon provide a consulting teacher who meets the requirements of subsection (b)(2) of this Section. The State Board of Education shall compensate any consulting teacher provided to a school district under this subsection.
- 5) If the consulting teacher becomes unavailable during the course of a remediation plan, a new consulting teacher shall be selected in the same manner as the initial consulting teacher. The remediation plan shall be amended as necessary upon consultation with the new consulting teacher for the balance of the remediation year.
- 6) The consulting teacher shall provide advice to the teacher rated as unsatisfactory on how to improve teaching skills and to successfully complete the remediation plan.
- 7) The consulting teacher shall not participate in any of the required quarterly evaluations, nor be engaged to evaluate the performance of the teacher

under remediation, unless a collective bargaining agreement provides otherwise.

- 8) The consulting teacher shall be informed, through three quarterly conferences with the qualified administrator and the teacher under remediation, of the results of the first three quarterly evaluations in order to continue to provide assistance to the teacher under a remediation plan.

- c) The Plan shall provide that any teacher who fails to complete the one-year remediation plan with a satisfactory or better rating shall be dismissed in accordance with Section 24-12 or 34-85 of The School Code (Ill. Rev. Stat. 1985 1987, ch. 122, par. 24-12 or 34-85).

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990.)

Section 50.55 Unsatisfactory Evaluations - Districts with a Population Over 500,000

- a) The Plan shall provide, within 30 calendar days after an evaluation has been reduced to writing resulting in a rating of unsatisfactory, for the development and initiation by the district of a remediation plan designed to correct the areas identified as unsatisfactory, provided the deficiencies are deemed remediable.

- 1) THE REMEDIATION PLAN SHALL PROVIDE FOR EVALUATIONS AND RATINGS TO OCCUR FOLLOWING THE TENURED TEACHER'S RECEIPT OF A REMEDIATION PLAN BASED UPON AN UNSATISFACTORY EVALUATION (Section 24A-5 of The School Code), as follows:

- A) THE REMEDIATION PLAN SHALL PROVIDE FOR 45 DAYS OF SCHOOL REMEDIATION WITHIN THE CLASSROOM (Section 24A-5 of The School Code).
- B) ADDITIONAL REMEDIATION, UP TO ONE YEAR (INCLUSIVE OF THE 45 DAYS), MAY BE PROVIDED ONLY IN THOSE CASES WHERE, AT THE TERMINATION OF THE 45-DAY IN-CLASS REMEDIATION, THE PRINCIPAL AND CONSULTING TEACHER (SEE SUBSECTION (b)) DETERMINE (BASED ON THE

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TEACHER'S PROGRESS) THAT THE TEACHER MAY BE REMEDIABLE (Section 24A-5 of The School Code).

i) SUCH ADDITIONAL REMEDIATION SHALL CREATE NO PRESUMPTION OF REMEDIABILITY AND MAY BE TERMINATED AT ANY TIME AFTER 45 OR 90 SCHOOL DAYS BY THE PRINCIPAL (Section 24A-5 of The School Code).

ii) THE PRINCIPAL AND CONSULTING TEACHER SHALL DETERMINE IF THE ADDITIONAL REMEDIATION SHALL BE CONDUCTED WITHIN OR OUTSIDE OF THE ASSIGNED CLASSROOM (Section 24A-5 of The School Code).

C) THE REMEDIATION PLAN SHALL ALSO PROVIDE FOR MONTHLY EVALUATIONS AND RATINGS FOR THE FIRST SIX MONTHS AND QUARTERLY EVALUATIONS AND RATINGS FOR THE NEXT SIX MONTHS IMMEDIATELY FOLLOWING COMPLETION OF THE REMEDIATION PROGRAM OF A TEACHER FOR WHOM A REMEDIATION PLAN HAS BEEN DEVELOPED. THESE SUBSEQUENT EVALUATIONS SHALL BE CONDUCTED BY THE QUALIFIED ADMINISTRATOR (Section 24A-5 of The School Code).

2) The evaluations and ratings shall be conducted by a qualified administrator.

A) When an evaluation schedule requires an evaluation after the close of the school year, but on or before July 15, such evaluation shall be scheduled to occur no later than two (2) weeks prior to the close of the preceding school year.

B) When an evaluation schedule requires an evaluation after the close of the school year, but after July 15, such evaluation shall be scheduled to occur not later than two (2) weeks after students' attendance commences in the following school year.

C) Failure to strictly comply with the timelines for the required evaluations because of illness or certain leaves granted teachers

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under a remediation plan, for example, shall not invalidate the results of the remediation plan.

3) The qualified administrator shall conduct the final evaluation at the conclusion of the applicable remediation period specified in subsection (a)(1).

4) THE REMEDIATION PLAN SHALL PROVIDE FOR REINSTATEMENT TO A SCHEDULE OF BIENNIAL EVALUATIONS FOR ANY TEACHER WHO SUCCESSFULLY COMPLETES BOTH THE 45 SCHOOL DAY REMEDIATION PLAN OR EXTENDED PLAN OF UP TO ONE YEAR AND A ONE-YEAR INTENSIVE REVIEW SCHEDULE BY RECEIVING A SATISFACTORY OR BETTER RATING IN EACH INSTANCE, UNLESS THE DISTRICT'S PLAN REGULARLY REQUIRES MORE FREQUENT EVALUATIONS (Section 24A-5 of The School Code).

b) Participants in the remediation plan shall include the teacher deemed unsatisfactory, a qualified administrator, and a consulting teacher. The remediation plan may include the participation of other personnel to assist in correcting areas identified as unsatisfactory.

1) The participation of the consulting teacher shall be voluntary.

2) The qualified consulting teacher shall be one who has received a rating of excellent on his or her most recent evaluation, has a minimum of five years experience in teaching, and has knowledge relevant to the assignment of the teacher under remediation.

3) The consulting teacher shall be chosen from a list developed by the district or, in districts with an exclusive bargaining agent, the bargaining agent may, if it chooses, supply a roster of at least 5 qualified teachers from which the consulting teacher is to be selected, or the names of all teachers so qualified if that number is less than 5. The participating administrator or principal of the teacher who was rated "unsatisfactory" shall select the consulting teacher.

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- 4) Where no consulting teacher is available in a district, the district shall request the State Board of Education to provide a consulting teacher. The State Board of Education shall thereupon provide a consulting teacher who meets the requirements of subsection (b)(2). The State Board of Education shall compensate any consulting teacher provided to a school district under this subsection.
- 5) If the consulting teacher becomes unavailable during the course of a remediation plan, a new consulting teacher shall be selected in the same manner as the initial consulting teacher. The remediation plan shall be amended as necessary upon consultation with the new consulting teacher for the balance of the remediation period.
- 6) The consulting teacher shall provide advice to the teacher rated as unsatisfactory on how to improve teaching skills and to successfully complete the remediation plan.
- 7) The consulting teacher shall not participate in any of the required evaluations, nor be engaged to evaluate the performance of the teacher under remediation, unless a collective bargaining agreement provides otherwise.
- 8) The consulting teacher shall be informed, through conferences with the qualified administrator and the teacher under remediation, of the results of the required evaluations in order to continue to provide assistance to the teacher under a remediation plan.
- c) The Plan shall provide that any teacher who fails to complete any applicable remediation plan with a satisfactory or better rating shall be dismissed in accordance with Section 34-85 of The School Code (Ill. Rev. Stat. 1988 Supp., ch. 122, par. 34-85).

(Source: Added at 14 Ill. Reg. 7503 effective May 7, 1990)

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Section 50.60 Multi-Year Collective Bargaining Agreements

- a) Any school district subject to a multi-year collective bargaining agreement signed prior to August 1, 1985, shall submit its current evaluation plan to the State Board of Education. The plan may be the evaluation plan developed pursuant to the collective bargaining agreement or otherwise operating in that district. The school district shall simultaneously notify the State Board of Education of the effective date(s) of the collective bargaining agreement(s).
- b) The school district shall submit to the State Board of Education, upon expiration of the collective bargaining agreement, an evaluation plan which meets the requirements of Article 24A of The School Code and of this Part. THE DISTRICT SHALL AT THE SAME TIME PROVIDE A COPY OF SUCH PLAN TO THE EXCLUSIVE BARGAINING REPRESENTATIVES (Section 24A-4 of The School Code).

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990)

Section 50.70 Alternative Evaluations

- a) A SCHOOL DISTRICT THAT DOES NOT COMPLETE AN EVALUATION OF ALL CERTIFICATED PERSONNEL BY THE END OF THE 1987-88 SCHOOL YEAR, OR THAT FAILS TO EVALUATE SUCH TEACHERS WITHIN EVERY TWO SCHOOL YEARS THEREAFTER, MUST SUBMIT TO THE STATE BOARD OF EDUCATION A ROSTER CONTAINING THE NAMES AND TITLES OF SUCH EMPLOYEES AND WRITTEN REASONS FOR THE FAILURE TO EVALUATE THEM (Section 24A-6 of The School Code).
- b) UPON RECEIPT OF SUCH REPORTS, OR IF OTHERWISE MADE AWARE THAT SUCH EVALUATIONS HAVE NOT BEEN CONDUCTED, THE STATE BOARD OF EDUCATION SHALL CONDUCT AN EVALUATION WHICH SHALL COMPLY WITH THE REQUIREMENTS OF THIS PART (Section 24A-6 of The School Code), except as provided in subsection (c)(3).
- c) Evaluation by the State Board of Education

- 1) IN DISTRICTS WHERE A COLLECTIVELY BARGAINED PLAN ALREADY EXISTS, THAT PLAN SHALL BE USED TO EVALUATE THE TEACHERS IN THAT DISTRICT RATHER THAN USING THE EVALUATION PLAN DEVELOPED BY THE STATE

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BOARD OF EDUCATION UNLESS THE COLLECTIVELY BARGAINED PLAN DOES NOT MEET THE REQUIREMENTS OF SUBSECTIONS (A) THROUGH (D) OF SECTION 24A-5 (Section 24A-6 of The School Code).

2) In districts where no collectively bargained plan exists, State Board of Education staff shall provide the school district not complying with the requirements of Section 24A-5 with a copy of the State Board of Education's evaluation Plan and shall schedule times for evaluations to be performed by State Board of Education staff.

3) IN CASES WHERE AN EVALUATION INSTRUMENT IS IN DISPUTE (e.g., in a grievance proceeding or a case pending before the Illinois Educational Labor Relations Board), THE STATE BOARD OF EDUCATION SHALL POSTPONE ITS EVALUATION UNTIL THE DISPUTE IS RESOLVED (Section 24A-6 of The School Code).

d) Copies of the results of evaluations conducted by State Board of Education staff shall be submitted to the school district not completing the evaluations.

e) Upon receipt of evaluations conducted by State Board of Education staff, the school district shall comply with the requirements of Section 24A-5(e) through (j) of The School Code.

(Source: Amended at 14 Ill. Reg. 7503, effective May 7, 1990.)

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NOTICE OF ADOPTED RULES

1) The Heading of the Part: Private Business and Vocational Schools

2) Code Citation: 23 Ill. Adm. Code 451

3) Section Number: Adopted Action:

451.10	New Section
451.20	New Section
451.30	New Section
451.40	New Section
451.50	New Section
451.60	New Section
451.70	New Section
451.80	New Section
451.90	New Section
451.100	New Section
451.110	New Section
451.120	New Section
451.200	New Section
451.210	New Section
451.220	New Section
451.230	New Section
451.235	New Section
451.240	New Section
451.250	New Section
451.260	New Section
451.270	New Section
451.280	New Section
451.290	New Section
451.300	New Section
451.400	New Section
451.410	New Section
451.420	New Section
451.430	New Section
451.500	New Section
451.510	New Section
451.520	New Section
451.530	New Section
451.540	New Section
451.550	New Section
451.555	New Section
451.560	New Section
451.570	New Section
451.580	New Section
451.590	New Section

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- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 144, par. 136 et seq.
- 5) Effective Date of Rules: May 3, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference under Section 6.02(b) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: April 30, 1990
- 9) Notice of Proposal Published in Illinois Register:
June 16, 1989, 13 Ill. Reg. 9133
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? Yes
If answer is "yes," please complete the following:
A) Statement of Objection: March 23, 1990, 14 Ill. Reg. 4741
B) Agency Response: May 18, 1990 , 14 Ill. Reg. 7662
C) Date Agency Response Submitted for Approval to JCAR: April 23, 1990
- 11) Difference(s) between proposal and final version:

The following changes have been made between the proposed and final versions of these rules.

The authority note was changed to:

Implementing and authorized by the Private Business and Vocational Schools Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 144, par. 136 et seq.) and Section 11-2.1 of the Public Aid Code (Ill. Rev. Stat. 1988 Supp., ch. 23, par. 11-2.1).

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED RULES

Section 451.10

Updated citation in Section 451.10(a) to state:

(Ill. Rev. Stat. 1987 and 1988 Supp., ch. 144, par. 136 et seq.)

Section 451.20

Modified Section 451.20(d)(1) to state:

- 1) issue a written report specifying the reason for the rejection within forty-five (45) business days from receipt of the application;

Modified last sentence in Section 451.20(e) to state:

If, as a result of the presentation by the applicant, the Superintendent determines that application deficiencies cannot be resolved, the Superintendent shall call for a hearing, as provided in Section 17 and Section 18 of the Act, to refuse to issue a Certificate of Approval; or if it appears that the school can resolve application deficiencies within the time limitations of subsection (f), the Superintendent shall allow the applicant to continue efforts to remove application deficiencies, subject to the provisions of subsection (f) of this Section.

Section 451.30

Modified Section 451.30(a) to state:

...evidence (e.g., a certificate, license, or a letter from a responsible agency)

Modified Section 451.30(c) to state:

...evidence (e.g., copies of certificates, licenses, or correspondence from the degree granting authority)

Section 451.40

Modified Section 451.40(c)(4) to state:

- 4) facility plans showing space available for the school to deliver programs in accordance with Section 451.270;

Modified Section 451.40(c)(6) to state:

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- 6) documentation verifying that the site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);

Modified Section 451.40(c)(11) to state:

- 11) verification of qualification of faculty and administrators pursuant to requirements in Sections 451.400 and 451.410;

Modified Section 451.40(c)(12) to state:

- 12) indication of surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required in Section 6(9) of the Act);

Modified Section 451.40(d) to state:

- d) A school shall have written policies and procedures for the administration and control of its extensions which describe provisions for continuous:

Modified Section 451.40(f) to state:

- f) The Superintendent will deny or revoke approval of an extension if it is found that the extension's instructional program is not comparable to that provided at the principal location or other extension sites; or a school has not provided instruction at the extension site during the previous year, unless the school presents the Superintendent with plans for correction of the problem.

Section 451.60

Modified Section 451.60(b)(4) to state:

- 4) floor and training ground plans showing space available for the school to deliver programs in accordance with Section 451.270;

Modified Section 451.60(b)(6) - (8) to state:

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- 6) documentation that the new site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);
- 7) documentation of bond coverage for sales representatives at the site (i.e., the bond covering the sales representatives);
- 8) documentation of school surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required in Section 6(9) of the Act);

Modified Section 451.60(c) to state:

- c) A school shall notify a designee of the Superintendent when it is prepared for a visit to the site of any changed location of the school, which shall be conducted prior to the Superintendent's issuing of a certificate of approval.

Section 451.70

Reorganized and modified Section 451.70 as follows:

- a) Following a change of ownership the new owner(s) must obtain a certificate of approval in order to operate the school.
- b) When a school has a change of fifty (50) percent or more of the school's stock or assets, in one or a series of transactions occurring within a three year period, it shall immediately file a change of ownership application with the fee specified in Section 10 of the Act. Included in this application shall be the following:

- 1) the names, addresses, and corporate titles of all persons or other entities having a financial interest of ten (10) percent or more of the ownership;
- 2) evidence of liability insurance coverage for students and employees as required in Section 451.235;

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- 3) evidence of qualification for all new managing employees and faculty as required in Sections 451.400 and 451.410;
 - 4) a new or revised catalog/bulletin or a supplement which describes the changed operations;
 - 5) a financial report, including the information required in Section 451.220, on forms provided for schools making original application;
 - 6) a fully executed surety bond and, if sales representatives are employed, a fully executed sales representative bond;
 - 7) evidence of compliance with the laws in the state in which the school is located and, if it is an out-of-state school, a statement of consent pursuant to Section 25.1 of the Act that actions may be commenced against the applicant in the courts of Illinois;
 - 8) a report on any other changes made in the school's organization and operations since the last application was filed and approved by the Superintendent;
 - 9) a report on arrangements made to ensure continuing operations and compliance with the Act and this Part during the change of school ownership.
- c) The Superintendent will review the application for change of ownership and, upon determining that the application is complete and the school is in compliance with the Act and regulations, issue a certificate of approval within 30 days of receipt of such application.

Section 451.80

Modified Section 451.80(a) to state:

- a) A school shall have written plans designed to protect the contractual rights, as set forth in subsections (b) and (c), including the right to complete the course of instruction in which they were enrolled, of its

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students and graduates in the event the school closes or undergoes a change of status (e.g., if the school changes location or if its certificate of approval is revoked). It shall return its certificate of approval to the Superintendent immediately by mail upon cessation of instruction or termination of approved status.

Modified Section 451.80(c) to state:

- c) If students are receiving instruction prior to the school's closing, the school shall file a plan including the information described in subsection (c)(1) with the Superintendent to ensure that the school's students will continue to receive training of the same quality and content as that for which they contracted, as indicated in subsection (c)(2).

Modified Section 451.80(d) to state:

- d) The school shall refund all tuition, fees, and other charges if the Superintendent, in any situation in which students are receiving instruction prior to a school's closing, determines that
 - 1) the school has not fulfilled its contractual obligations, or
 - 2) a student has reasonable objections to transfer resulting from the closing.

Section 451.90

Capitalized statutory language and added full statutory citation.

Section 451.120

Modified Section 451.120(c)(2) to state:

- 2) Data shall be compiled for the school's last completed fiscal year prior to filing a renewal application and shall be certified true and correct by the owner, officer, or chief managing employee.

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Added Section 451.120(c)(3) to state:

- 3) The graduation or completion rate shall be calculated by dividing the total number of students who completed the course of instruction or graduated in that year by the total number of students who were originally scheduled to complete the course of instruction or graduate in that year, as set forth in their enrollment agreements.

Section 451.220

Modified Section 451.220 to state:

- a) The school shall provide the following financial information with each original application and each annual renewal:
 - 1) Financial statements compiled in accordance with standards established by the American Institute of Certified Public Accountants (Codification of Statements on Standards for Accounting and Review Services, Nos. 1-6, January 1, 1989; no later amendments to or editions of these standards are incorporated) and including:
 - A) a balance sheet,
 - B) an income statement, and
 - C) a statement of cash flows; and

2) When applicable:

- A) an annual report, and
 - B) the prior year's financial history.
- b) If, after analyzing the school's financial reports and records, the Superintendent determines a school is not financially sound or that it has financial difficulties deemed serious enough to consider denial or revocation of approval or that its records are incomplete or inaccurate, the Superintendent shall require the school within 75 calendar days of written notice to submit:

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- 1) audited financial statements with the report of the independent auditors by whom the audit was performed; and
- 2) its most recent federal and state income tax reports.

Section 451.240

Modified Section 451.240(b) to state:

- b) A school shall maintain permanent records suitable for transcript purposes for all Illinois students. Permanent student records shall be maintained for fifty (50) calendar years after the student has departed from the school and include at minimum:

Modified Section 451.240(d)(3) and (6) to state:

- 3) evidence of regular reports to students on grades and rates of academic progress (e.g., grade reports, test results, academic warnings);
- 6) evidence of placement efforts (e.g., references provided to students, letters to employers, interview schedules) to secure employment for the student and the name, address, and telephone number of the graduate's employer if placement assistance is offered.

Modified Section 451.240(e) to state:

- e) A school shall not release, transfer, disclose or otherwise disseminate student records or information contained therein unless upon the student's written request, except: to an authorized employee or an official of the school; to a representative or designee of the school's nationally recognized accrediting agency; or persons authorized or required to have such information by state or federal law or pursuant to a court order; or to the Superintendent.

Modified Section 451.240(g) to state:

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The authorization will be granted within ten business days of receipt of:

- 1) a completed application; and
- 2) the requisite fee, as specified in the Act.

Modified Section 451.250(e) to state:

- e) The school receiving approval to advertise shall adhere to the requirements of this Section. It shall not advise or advertise it is approved until a certificate of approval has been received from the Superintendent.

Section 451.260

Added a comma after the word "bulletin" in Section 451.260(b).

Added a comma after the word "policies" in Section 451.260(f)(6).

Section 451.270

Modified Section 451.270(a)(1) to state:

- 1) Approved courses shall be implemented fully and taught in accordance with conditions for approval set by the Superintendent as required in this Section.

Eliminated the words "and expectations" and "appropriate" from section 451.270(b).

Modified Section 451.270(c)

- c) No course of instruction or subject shall be taught without written approval from the Superintendent in accordance with subsections (c)(1) and (c)(2).

Modified Section 451.270(d) to state:

- d) A school shall establish explicit objectives regarding student learning for each course of instruction and subject offered. The objectives shall include statements of the specific knowledge and skills each student must achieve by the time of course completion.

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- g) A school shall develop and enforce security measures to protect permanent student records from damage or destruction for the period required under Section 7(3) of the Act.

Remove commas after "student records" and "school" in Section 451.240(d).

Section 451.250

Modified Sections 451.250(b)(3) and (4) to state:

- 3) use photographs or other illustrations of school facilities only if these are the facilities being used to provide instruction (in the case of national advertising, the facilities shown must be representative of those which will be used);
- 4) use photographs or other illustrations in ways which accurately portray the size and location of the school, its equipment and facilities or the career for which the student is being trained (in the case of national advertising, the school, equipment, and facilities portrayed must be representative of those which will be used or provided);

Modified Section 451.250(c)(6) to state:

- 6) advertise as an employment agency or under the same or similar name as such an agency or knowingly advertise training courses in the "Help Wanted" section of any newspaper;

Modified Section 451.250(c)(8) to state:

- 8) advertise any tuition, fees, or other charges in amounts other than those currently on file with the Superintendent or advertise them without showing the total cost, including fees;

Modified Section 451.250(d), starting with the third sentence, to state:

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Deleted the words "where appropriate" from Section 451.270(f)(2).
Modified Section 451.270(g)(1) to state:

- 1) Faculty shall be competent in the methods the school has adopted as most appropriate for its curriculum and students.

Modified Section 451.270(1) to state:

- 1) In-residence and home study/in-residence schools shall maintain and, upon request of the Superintendent, provide their policies for determining maximum student/faculty ratios for each course of instruction and each subject within the course. Student/faculty ratio policies shall:

- 1) be varied to conform to the requirements for different courses of instruction and subjects;
- 2) give the rationale used to determine how the maximum class sizes for different courses and subjects were determined.

Modified Section 451.270(o) to state:

- o) In-residence schools shall not assign a faculty member to teach more than one subject, or cause any faculty member to be responsible for instruction in two separate classrooms, during the same class period. A faculty member may teach more than one level of the same subject during the same class period, provided that in each such instance the school shall ensure that the instruction provided to each student is appropriate to his or her level. Evidence of compliance with this requirement shall be:

- 1) individual instructional programs; or
- 2) class grouping and instruction by ability level.

Modified Sections 451.270(p)(2) and (4) to state:

- 2) the scope and sequence of the course is the same as that previously approved by the Superintendent;

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- 4) the school continues to have approved faculty for the course of instruction pursuant to Section 451.410.

Section 451.280

Modified Section 451.280(b)(2) to state:

- 2) consistent with the educational background, reading ability, and interests of the school's students;

Modified Section 451.280(b)(3) to state:

- 3) organized sequentially in units from rudimentary to advanced, with transitional materials to guide students through the course of study;

Modified Section 451.280(b)(6) to state:

- 6) designed to permit the student to measure his/her progress and to apply knowledge learned (e.g., student checklist, examinations, sample problems and exercises).

Section 451.300

Modified the second sentence in 451.300(a) to state:

A school shall conduct its programs at sites and facilities related to the kinds of educational services it offers its students.

Section 451.400

Removed the word "relevant" from Section 451.400(c)(3).

Section 451.410

Modified Section 451.410(b)(1) to state:

- 1) graduation from a state approved, four-year degree granting school with satisfactory completion of no less than twenty-four (24) semester hours in the

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academic or vocational/skill subject area in which the applicant will be assigned to teach (included in the twenty-four hours must be evidence of satisfactory completion of at least one three (3) semester hour college level course in each subject to which the faculty member is to be assigned.); or

Modified Section 451.410(b)(3) to state:

- 3) completion of no less than 6,000 clock hours of successful on-the-job experience in the academic or vocational/skill subject area in which the applicant will be assigned to teach.

Deleted the word "relevant " from Section 451.410(e)(4)

Modified Section 451.410(i)(2) to state:

- 2) not be responsible for the overall evaluation of any student;

Section 451.420

Modified Section 451.420(a)(1) to state:

- 1) A person initiating any direct action (e.g., via personal contact with an individual or group, including dispensing sales literature to a person or group, or contact by telephone) to procure students for the school by requesting, inducing or persuading such prospective students to enroll shall be deemed to be a sales representative.

Modified Section 451.420(g)(3) to state:

- 3) respond upon request with information relevant to the prospective student's enrollment decision, to the extent to which such information is not confidential;

Modified Section 451.420(g)(7) to state:

- 7) explain the student's payment obligations as set forth in the enrollment agreement and explain the school's refund policy;

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Modified Section 451.420(g)(11) to state:

- 11) make available for review sample copies of the school's home study lessons prior to the student's signing of the enrollment agreement;

Modified Section 451.420(g)(13) to state:

- 13) explain the admission criteria for the school's course(s) of study;

Modified Section 451.420(h)(2) to state:

- 2) state that credits from the school are transferable unless such claims are supported by documentation (e.g., a letter or some form of communication attesting to the transferability of the credits) in the school's files;

Modified Section 451.420(h)(3) to state:

- 3) recommend a prospective student for acceptance unless the representative has reason to believe he/she has a chance to succeed;

Modified Section 451.420(j)(2) to state:

- 2) If the card has been lost or destroyed, or if the sales representative refuses to return the card, the school shall send a written notice to this effect to the Superintendent.

Section 451.500

Modified the third sentence in Section 451.500(a) to state:

Schools not requiring successful completion of high school or the GED shall provide the Superintendent with evidence (e.g., letters or similar communications from employers) that such completion is not normally required for persons seeking placement in the occupations for which it trains students.

Remove ", where appropriate," from the second sentence of Section 451.500(b).

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Modified Section 451.500(c) to state:

- c) When the school admits an applicant who does not meet all of its admissions standards, it shall record the reasons why the student was permitted to enroll and so inform the student.

Capitalized the statutory language in Section 451.500(f) and added full statutory citation.

Modified Section 451.500(h) to state:

- h) A school shall not enroll an applicant under the age of sixteen (16) or an applicant enrolled in an elementary or a high school in Illinois unless it has established through verifiable and recorded contact with responsible school officials (school superintendent, school principal, or designee) that, based on academic performance, the course will not be detrimental to the student's regular school coursework.

Modified Section 451.500(k)(4) to state:

- 4) its credits are acceptable for admission or advanced standing at any school, college, or university unless it has previously filed evidence (e.g., a letter or some form of communication attesting to the transferability of the credits) to this effect with the Superintendent;

Section 451.510

Modified Section 451.510(a) to state:

- a) A school shall not deny admission to a student with a physical or mental handicap which is unrelated to the student's ability to successfully complete the student's intended course of instruction.

Modified Section 451.510(b)(2) to state:

- 2) maintain evidence on file that the student has been informed of requirements for minimum successful performance in the course of instruction and for entrance into the vocation for

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which the student seeks training (e.g., signed statement from the student, copy of information delivered to all students).

Deleted Section 451.510(c).

Section 451.520

Modified Section 451.520, starting with the third sentence, to state:

Data required in Section 15.1(11) of the Act shall be reported as follows:

- 1) data shall be compiled for the school's last completed fiscal year;
- 2) the graduation or completion rate shall be calculated by dividing the total number of students who completed the course of instruction or graduated in that year by the total number of students who were originally scheduled to complete the course of instruction or graduate in that year;
- 3) the placement rates shall be calculated from the data compiled for the year reported.

Modified Section 451.520(h) by removing subsection (h)(2) and relettering.

Section 451.530

Added commas after "definitions" and "Act" in Section 451.530(a).

Added a comma after "to the student" in Section 451.530(a)(9).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes

- 13) Will this rule replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER m: POSTSECONDARY SCHOOLS

PART 451
PRIVATE BUSINESS AND VOCATIONAL SCHOOLS

SUBPART A: SCHOOL APPROVAL

Section	
451.10	Introduction
451.20	Application for Certificate of Approval
451.30	Out-of-State School Approval
451.40	Classroom Extensions
451.50	Supplementary Courses of Instruction
451.60	Change of School Location
451.70	Change of School Ownership
451.80	School Closing/Change of Status
451.90	Warning, Suspension, Revocation of Accreditation and/or Approval
451.100	Inspection and Periodic Review
451.110	Cease and Desist Orders
451.120	Comparison of Graduation or Completion Rates

SUBPART B: SCHOOL STRUCTURE AND OPERATIONS

Section	
451.200	School Purpose
451.210	Administration and Organization
451.220	Financial Resources/Financial Recordkeeping
451.230	School Surety Bond
451.235	Liability Insurance
451.240	Recordkeeping
451.250	School Advertising
451.260	School Catalog/Bulletin
451.270	Instructional Program and Services
451.280	Home Study and Home Study/In-Residence Schools
451.290	Student Work Experience
451.300	Instructional Equipment, Facilities and Materials

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15) Summary and Purpose of Rules:

These rules regulate private business and vocational schools under authority granted the State Board of Education by the Private Business and Vocational Schools Act (Ill. Rev. Stat. 1985, ch. 144, par. 136 et seq.). In light of extensive changes made in the Act by Public Act 83-1484, the State Board is repealing the current Part 451 governing private business and vocational schools and adopting this new Part 451. The rules set requirements for approving schools, as well as requirements for school operations, personnel, and recordkeeping.

16) Information and questions regarding this adopted rule shall be directed to:

Name: Roy McDermott
Address: Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
Telephone: (217) 782-5518

The full text of the Adopted Rules begins on the next page:

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SUBPART C: SCHOOL PERSONNEL

Section

451.400 Administrator Qualifications
 451.410 Faculty Qualifications
 451.420 Sales Representatives
 451.430 Sales Representative Bond

SUBPART D: STUDENTS

Section

451.500 Student Admissions Standards
 451.510 Handicapped Students
 451.520 Enrollment Agreements
 451.530 Student Obligations, Cancellation and Refund Policies
 451.540 Student Personnel Services
 451.550 Placement Assistance
 451.555 Student Progress
 451.560 Student Attendance and Tardiness
 451.570 Student Conduct and Discipline
 451.580 Student Rights
 451.590 Student Complaints

AUTHORITY: Implementing and authorized by the Private Business and Vocational Schools Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 144, par. 136 et seq.) and Section 11-2.1 of the Public Aid Code (Ill. Rev. Stat. 1988 Supp., ch. 23, par. 11-2.1).

SOURCE: Adopted February 1, 1973; codified at 8 Ill. Reg. 16289; Part repealed, new Part adopted at 14 Ill. Reg. 7518, effective MAY 3, 1990.

NOTE: Capitalization denotes statutory language.

SUBPART A: SCHOOL APPROVAL

Section 451.10 Introduction

- a) The State of Illinois recognizes the importance and significant public contributions of private schools offering occupational training to its citizens. It has delegated responsibility for rulemaking and approving and monitoring these schools to the State Board of Education and State Superintendent of Education in the Private Business and Vocational Schools Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 144, par. 136 et seq.),

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hereinafter referred to as the Act. The Act provides for the establishment of rules and standards which schools and individuals must meet prior to the issuance of original certificates of approval or permits and the renewal of such certificates or permits.

- b) Schools or individuals making original application for approval shall meet all applicable requirements of this Part prior to a certificate of approval or permit being issued. Schools or sales representatives already holding valid certificates of approval or permits shall satisfy all provisions stated herein as a condition for the renewal of their certificate or permit(s).
- c) Schools shall have a copy of the Act and this Part available for reference by their staff and students at their principal location within Illinois.

Section 451.20 Application for Certificate of Approval

- a) A school, as defined in Section 1 of the Act, shall submit an original application for its first approval year on forms provided by the Superintendent, unless exempt under Section 1.1 of the Act.
- b) The school shall include with the original application the information required by Sections 6 and 7 of the Act, the fee(s) required by Section 10 of the Act, copies of its policies, procedures, and operations required by this Part, and its annual academic calendar.
- c) If the Superintendent finds that the original application is not complete, the application and fee(s) shall be returned to the school with a statement that certain required information is missing.

- d) If a completed original application is rejected, the Superintendent shall:

- 1) issue a written report specifying the reason for the rejection within forty-five (45) business days from receipt of the application;
- 2) issue a certificate of approval only after the reasons for rejecting the application have been removed.

- e) If a school is in disagreement with the Superintendent's findings regarding its original application, it may, within sixty (60) business days of receipt of the application deficiency report, petition the Superintendent in writing for a reexamination of the application. The petition shall include the reasons for disagreement with the Superintendent's findings, and documentation and exhibits supporting the school's contentions of approvability. If, based on the petition and reexamination of the application, the Superintendent finds and issues a report stating that the school still has not fulfilled all requirements for approval, the school may make a written request within thirty (30) business days of receipt of this report for an informal hearing to show why it believes it has satisfied all application requirements. The request will be granted within thirty (30) business days of receipt of that request. If, as a result of the presentation by the applicant, the Superintendent determines that application deficiencies cannot be resolved, the Superintendent shall call for a hearing, as provided in Section 17 and Section 18 of the Act, to refuse to issue a Certificate of Approval; or if it appears that the school can resolve application deficiencies within the time limitations of subsection (f), the Superintendent shall allow the applicant to continue efforts to remove application deficiencies, subject to the provisions of subsection (f) of this Section.

- f) If the Superintendent finds a school has not satisfied the original application requirements within twelve (12) months from the date of receipt of the application, the school shall pay an additional \$500 original application fee if the school continues the application process.

- g) A school or school extension which has not provided instruction in any approval year and that desires to resume operations in Illinois shall file an original application and pay the original application fee.

- h) A school shall submit a renewal application by April 1 of each year on forms provided by the Superintendent which update the information previously submitted by the school and which call for information that has not

been reported by the school since the filing of the original application.

Section 451.30 Out-of-State School Approval

In addition to the requirements set forth in Section 451.20, out-of-state schools shall also comply with the following:

- a) An out-of-state school shall annually provide the Superintendent with evidence (e.g., a certificate, license, or a letter from a responsible agency) of full approval or accreditation by the regulatory agency of each state in which the school is located or conducts business.
- b) At the time of original and renewal applications, an out-of-state school shall present the Superintendent with copies of any consent order entered into with the Federal Trade Commission.
- c) An out-of-state school shall not market its degree programs in Illinois without having first presented the Superintendent with evidence (e.g., copies of certificates, licenses, or correspondence from the degree granting authority) of degree granting authority from the state in which it is located.

Section 451.40 Classroom Extensions

- a) A school shall be permitted to provide instructional services at locations other than its principal location only upon filing a separate application for approval of each classroom extension and payment of the application fee specified in the Act. There shall be no instruction conducted at any extension site without the Superintendent's written approval of the site. If instruction has been conducted at the extension site during the previous approval year, the school shall make application for continued approval of the site with its annual renewal application.
- b) The approval year for extensions shall coincide with that of the original application or any renewal applications.

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c) Included in the original application for each extension shall be the following:

- 1) the extension site's address and telephone number;
- 2) the name, business address, and telephone number of the site's administrator(s) during hours of instruction;
- 3) inventories of instructional equipment;
- 4) facility plans showing space available for the school to deliver programs in accordance with Section 451.270;
- 5) certificate of liability insurance coverage for the site or a rider to the certificate indicating site coverage;
- 6) documentation verifying that the site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);
- 7) descriptions of the specific courses of instruction to be offered;
- 8) projected enrollment figures;
- 9) description of the plans and procedures for ensuring supervision during the hours that instruction is being given and students are present;
- 10) a list of all faculty and the subjects they are assigned to teach;
- 11) verification of qualification of faculty and administrators pursuant to requirements in Sections 451.400 and 451.410;
- 12) indication of surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required in Section 6(9) of the Act);

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- 13) three copies of a new or revised catalog/bulletin or three copies of catalog/bulletin supplements which give information on the extension site;
- 14) copies of advertising materials to be used for the extension site.
- d) A school shall have written policies and procedures for the administration and control of its extensions which describe provisions for continuous:
 - 1) supervision and control of activities at the site during its hours of operation;
 - 2) evaluation of instructional activities at the site.
- e) If an administrator appointed under Section 451.400 of this Part is not at the site when students are present and instruction is being given, the policies and procedures shall provide for an administrator to be immediately on call to answer student and faculty questions and give direction for any contingencies which may occur. The school shall furnish students and faculty with the name, address, and telephone number of the extension administrator(s).
- f) The Superintendent will deny or revoke approval of an extension if it is found that the extension's instructional program is not comparable to that provided at the principal location or other extension sites; or a school has not provided instruction at the extension site during the previous year, unless the school presents the Superintendent with plans for correction of the problem.
- g) A school shall notify the Superintendent at least five (5) business days prior to closure of any extension during any approval year.

Section 451.50 Supplementary Courses of Instruction

- a) The school shall make application for approval of any supplementary course of instruction by completing forms provided by the Superintendent and paying the fee specified in the Act.

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- b) Applications for approval of supplementary courses of instruction shall be submitted at least thirty (30) calendar days prior to the date instruction in the course will begin.
- c) Requirements for approval of supplementary courses of instruction shall be the same as those for original course approval under Section 451.270 of this Part.

Section 451.60 Change of School Location

- a) A school shall notify the Superintendent at least thirty (30) calendar days in advance of any change of its principal location. It shall file an application on forms provided, pay the fee specified in the Act, and secure approval prior to operating at the new location.
- b) Included in the application for change of location shall be the following:
 - 1) the new location's address and telephone number;
 - 2) assurance that the site will be operated in accordance with the school's policies and guidelines as previously submitted to the Superintendent;
 - 3) inventories of instructional equipment if different from those previously submitted to the Superintendent;
 - 4) floor and training ground plans showing space available for the school to deliver programs in accordance with Section 451.270;
 - 5) certificate of liability coverage or a rider indicating coverage of the new site;
 - 6) documentation that the new site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);
 - 7) documentation of bond coverage for sales representatives at the site (i.e., the bond covering the sales representatives);

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- 8) documentation of school surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required in Section 6(9) of the Act);
- 9) three (3) copies of the school's revised catalog/bulletins or catalog/bulletin supplements which give a description of the new site and its address;
- 10) academic calendar for the location.
- c) A school shall notify a designee of the Superintendent when it is prepared for a visit to the site of any changed location of the school, which shall be conducted prior to the Superintendent's issuing of a certificate of approval.

Section 451.70 Change of School Ownership

- a) Following a change of ownership the new owner(s) must obtain a certificate of approval in order to operate the school.
- b) When a school has a change of fifty (50) percent or more of the school's stock or assets, in one or a series of transactions occurring within a three year period, it shall immediately file a change of ownership application with the fee specified in Section 10 of the Act. Included in this application shall be the following:
 - 1) the names, addresses, and corporate titles of all persons or other entities having a financial interest of ten (10) percent or more of the ownership;
 - 2) evidence of liability insurance coverage for students and employees as required in Section 451.235;
 - 3) evidence of qualification for all new managing employees and faculty as required in Sections 451.400 and 451.410;

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- 4) a new or revised catalog/bulletin or a supplement which describes the changed operations;
- 5) a financial report, including the information required in Section 451.220, on forms provided for schools making original application;
- 6) a fully executed surety bond and, if sales representatives are employed, a fully executed sales representative bond;
- 7) evidence of compliance with the laws in the state in which the school is located and, if it is an out-of-state school, a statement of consent pursuant to section 25.1 of the Act that actions may be commenced against the applicant in the courts of Illinois;
- 8) a report on any other changes made in the school's organization and operations since the last application was filed and approved by the Superintendent;
- 9) a report on arrangements made to ensure continuing operations and compliance with the Act and this Part during the change of school ownership.

- c) The Superintendent will review the application for change of ownership and, upon determining that the application is complete and the school is in compliance with the Act and regulations, issue a certificate of approval within 30 days of receipt of such application.

Section 451.80 School Closing/Change of Status

- a) A school shall have written plans designed to protect the contractual rights, as set forth in subsections (b) and (c), including the right to complete the course of instruction in which they were enrolled, of its students and graduates in the event the school closes or undergoes a change of status (e.g., if the school changes location or if its certificate of approval is revoked). It shall return its certificate of approval to the Superintendent immediately by mail upon cessation of instruction or termination of approved status.

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- b) A school which is closing, either voluntarily or involuntarily, shall:
 - 1) inform the Superintendent of this action immediately by certified mail;
 - 2) give the Superintendent the name, address, and telephone number of the person who will be responsible for closing arrangements;
 - 3) provide the Superintendent with the name, address, and telephone number and the name of the course of instruction for each student who has not completed his or her course of instruction;
 - 4) provide the Superintendent with information on the amount of class time left for each student to complete the course with the amount of refund, if any, for which each student is eligible;
 - 5) furnish the Superintendent with copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or to continue their education;
 - 6) file procedures for disbursement of refunds with the Superintendent and set a date no later than thirty (30) days from the last day of instruction to issue refund checks in the full amount for which students are entitled;
 - 7) immediately at its closing, transfer its permanent student records to the Superintendent.
- c) If students are receiving instruction prior to the school's closing, the school shall file a plan including the information described in subsection (c)(1) with the Superintendent to ensure that the school's students will continue to receive training of the same quality and content as that for which they contracted, as indicated in subsection (c)(2).
- 1) Arrangements for transferring students to a public or another approved private school shall be filed

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with the Superintendent prior to any student transfer.

- 2) Prior to approving the school's arrangements for completing its teaching obligations to students, the Superintendent shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted.
- d) The school shall refund all tuition, fees, and other charges if the Superintendent, in any situation in which students are receiving instruction prior to a school's closing, determines that
 - 1) the school has not fulfilled its contractual obligations, or
 - 2) a student has reasonable objections to transfer resulting from the closing.

Section 451.90 Warning, Suspension, Revocation of Accreditation and/or Approval

A SCHOOL SHALL PROVIDE THE SUPERINTENDENT WITH A COPY OF ANY NOTICE OF WARNING, SUSPENSION, OR REVOCATION RECEIVED FROM ANY NATIONAL, REGIONAL, OR STATE ACCREDITING AND/OR APPROVAL AGENCY WITHIN FIFTEEN (15) DAYS OF RECEIPT OF SUCH NOTICE. THE SCHOOL SHALL AT THE SAME TIME INFORM THE SUPERINTENDENT IN WRITING OF ACTIONS BEING TAKEN TO CORRECT THE DEFICIENCIES CITED (Section 15.3 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 150.3).

Section 451.100 Inspection and Periodic Review

- a) A school shall provide the Superintendent and his/her designee(s) access to all information, records, physical facilities, school personnel, including advisory groups and administrators, students and graduates as may be necessary to verify compliance with the Act and this Part.
- b) A SCHOOL SHALL PERMIT THE SUPERINTENDENT OR HIS/HER DESIGNEE(S) TO INSPECT THE SCHOOL WITH OR WITHOUT NOTICE (Section 7.5 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 142).

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- c) A school located in Illinois shall be inspected within the first eighteen (18) months after the issuance of its original Illinois certificate of approval.
- d) After an initial inspection prior to original approval, existing schools shall be inspected for the purposes of validating continuing compliance with the Act and this Part and to determine whether the school is adhering to its own policies and procedures and is providing its described programs and services.
- e) Whenever an inspection or other investigation reveals lack of compliance with the Act or this Part, the Superintendent shall send the school a report of deficiencies. The school shall have fifteen (15) calendar days to respond to the report on actions which have been taken to correct these deficiencies.
 - 1) The school's response shall indicate action which has been or will be taken to correct deficiencies cited.
 - 2) If violations cited are not corrected within thirty (30) days following the school's receipt of the report, the Superintendent shall proceed to a hearing to revoke, suspend, or place on probation the school's certificate of approval.
 - 3) A school whose certificate has been placed on suspension shall not be permitted to engage in any marketing or student enrollment activities or begin the instruction of any new students during the period of suspension.
- f) For the purpose of conducting periodic inspections, with thirty (30) calendar days' notice, the Superintendent may require schools located fifty (50) or more miles outside Illinois to furnish in writing the same information reviewed during on-site inspections of schools located in Illinois.

Section 451.110 Cease and Desist Orders

- a) Under authority given in Section 17 of the Act, during any time which may be designated for remediating deficiencies prior to revocation or refusal to renew a

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certificate of approval, the Superintendent may issue a directive ordering a school to cease and desist all sales, advertising, marketing and enrollment activities for any cause enumerated in Section 16 of the Act exclusive of those causes enumerated in paragraphs 3 and 4 of that Section.

- b) On receipt of a cease and desist order the school shall immediately cease and desist from all sales, advertising, marketing and enrollment activities. It shall report to the Superintendent in writing within fifteen (15) days on actions which will be taken to correct the deficiencies cited. The report shall include the date(s) for completion of corrective activities.

- c) The Superintendent shall notify the school in writing immediately when conditions relating to issuance of the order have been rectified and the school is again eligible to resume its normal sales, advertising, marketing and enrollment functions.

- d) If deficiencies noted by the Superintendent are not corrected within thirty (30) days following the school's receipt of the report, the Superintendent shall proceed to a hearing to show why the school's certificate of approval should not be placed on probation, suspended or revoked.

Section 451.120 Comparison of Graduation or Completion Rates

- a) The following definitions shall apply for purposes of collecting data for comparison of graduation or completion rates as required in Section 14.1 of the Private Business and Vocational Schools Act (Ill. Rev. Stat. 1988 Supp., ch. 144, par. 149.1) and this Part:

- 1) "Business schools" include but are not limited to schools in which the majority of students are enrolled in courses of instruction or subjects such as accounting, business management, computer programming and operations, court reporting, data entry and reporting, fashion careers, hospitality/hotels, paralegal, retailing and merchandising, secretarial and office skills, securities and banking, travel, and word processing.

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- 2) "Technical or Vocational schools" include trade schools and other schools in which the majority of students are enrolled in courses of instruction or subjects such as art/design, aviation, appliance repair, automotive repair, bartending, commercial arts, computer maintenance, carpentry, cooking, diesel technology, dog-grooming, drafting, electronics technology, forestry, heating/air conditioning, horseshoeing, interior decoration, locksmithing, modeling, sign painting, radio/television broadcasting, shoe repair, truck driving, welding, and allied health occupations such as dental assisting, health aides, medical assistant, medical records, medical technician, nurses aides/assistant, and pharmacy assistant.

- b) THE SUPERINTENDENT SHALL ANNUALLY REVIEW AND INVESTIGATE ALL APPROVED SCHOOLS AND COURSES OF INSTRUCTION. SUCH ANNUAL REVIEW SHALL INCLUDE A COMPARISON BETWEEN THE GRADUATION OR COMPLETION RATE FOR THE SCHOOL AND THE GRADUATION OR COMPLETION RATE FOR THE SCHOOLS WITHIN THE INDUSTRY THE SCHOOL REPRESENTS SUCH AS BUSINESS, TECHNICAL OR VOCATIONAL SCHOOLS. ANY SCHOOL THAT FAILS TO MAINTAIN A GRADUATION OR COMPLETION RATE GREATER THAN 50% OF THE AVERAGE GRADUATION OR COMPLETION RATE FOR SCHOOLS WITHIN THAT INDUSTRY SHALL BE PLACED ON PROBATION FOR ONE YEAR. IF THAT SCHOOL'S GRADUATION OR COMPLETION RATE FAILS TO EXCEED 50% OF THE AVERAGE GRADUATION RATE FOR SCHOOLS WITHIN THAT INDUSTRY FOR THAT SCHOOL'S NEXT FISCAL YEAR, THEN THE SUPERINTENDENT SHALL REVOKE THAT SCHOOL'S APPROVAL TO OPERATE IN THE STATE OF ILLINOIS (Section 14.1 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 149.1).

- c) To satisfy this requirement schools shall submit data annually to the Superintendent which identifies graduation or completion rates.

- 1) Data shall be submitted on forms provided by the Superintendent at the time of application for renewal of the school's certificate of approval.
- 2) Data shall be compiled for the school's last completed fiscal year prior to filing a renewal

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application and shall be certified true and correct by the owner, officer, or chief managing employee.

- 3) The graduation or completion rate shall be calculated by dividing the total number of students who completed the course of instruction or graduated in that year by the total number of students who were originally scheduled to complete the course of instruction or graduate in that year, as set forth in their enrollment agreements.
- 4) Schools shall maintain records, available for the Superintendent's review, which substantiate the annual graduation or completion rate data submitted. Recordkeeping required in Section 451.240 of this Part will satisfy the requirements of this subsection.

SUBPART B: SCHOOL STRUCTURE AND OPERATIONS

Section 451.200 School Purpose

The school shall prepare a statement of school purpose which describes its general aims and principles. The purpose shall be peculiar to the school, its staff and student body and feature the special characteristics of its occupational programs.

Section 451.210 Administration and Organization

Each school shall develop and maintain an administrative organization and organizational chart which will be submitted with its application. The organizational chart shall name the chief managing employee and any assistant chief managing employee(s) and specify their functions.

Section 451.220 Financial Resources/Financial Recordkeeping

- a) The school shall provide the following financial information with each original application and each annual renewal:
 - 1) Financial statements compiled in accordance with standards established by the American Institute of Certified Public Accountants (Codification of Statements on Standards for Accounting and Review Services, Nos. 1-6, January 1, 1989; no later

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amendments to or editions of these standards are incorporated) and including:

- A) a balance sheet,
- B) an income statement, and
- C) a statement of cash flows; and

2) When applicable:

- A) an annual report, and
- B) the prior year's financial history.

b) If, after analyzing the school's financial reports and records, the Superintendent determines a school is not financially sound or that it has financial difficulties deemed serious enough to consider denial or revocation of approval or that its records are incomplete or inaccurate, the Superintendent shall require the school within 75 calendar days of written notice to submit:

- 1) audited financial statements with the report of the independent auditors by whom the audit was performed; and
- 2) its most recent federal and state income tax reports.

Section 451.230 School Surety Bond

a) A school shall supply the Superintendent with the original copy of a fully executed, continuous surety bond written by a company authorized to do business in Illinois in the sum of no less than \$10,000.

- 1) In the event that the school will have unearned prepaid tuition for Illinois students at any one time in an amount which exceeds \$10,000, it shall increase the amount of its bond by \$10,000 increments up to a maximum of \$100,000 so that the sum of the bond always exceeds the amount of the unearned prepaid tuition.
- 2) If unearned prepaid tuition for Illinois students in the possession of the school will exceed

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\$100,000, the bond shall be in a sum at least equal to the greatest projected amount of unearned prepaid tuition which will be in the school's possession at any one time.

- b) The school shall submit its projection of greatest amount of unearned prepaid tuition with its initial application for a certificate and the actual amount, based upon the record of the previous fiscal year, with each succeeding application.
- c) Should the Superintendent determine after applying the provisions of this Section that the school must increase the amount of bond coverage, the school shall file a bond rider acknowledging increased coverage within thirty (30) calendar days of receipt of the Superintendent's notice requiring such increase.
- d) In the event of cancellation of the bond by a bonding company, the school shall furnish a fully executed replacement bond to the Superintendent within ninety (90) calendar days of the Superintendent's receipt of the notice of cancellation.
- e) The bonding company shall on the Superintendent's request provide reasons for bond termination within thirty (30) calendar days of the Superintendent's receipt of notice of such termination.

- f) Termination of the school's surety bond coverage shall be grounds for revocation of its certificate of approval.

- g) When the school provides instruction at extensions, the surety bond or riders attached thereto shall indicate coverage for all Illinois students at all sites where instruction is or will be given.

Section 451.235 Liability Insurance

- a) A school shall maintain continuous liability insurance from a company authorized to do business in Illinois for the protection of the school's students and employees.

- 1) The liability insurance policy shall specify limits of liability of not less than \$100,000 per

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person and \$300,000 per occurrence for bodily injury liability and not less than \$50,000 per occurrence for property damage liability.

- 2) Such insurance shall include coverage for off-campus learning experiences such as student commercial employment as a part of the instructional program, internships/externships, cooperative education, and experiential learning activities, unless the school furnishes the Superintendent a certificate of insurance evidencing such coverage is being provided by the employer or other person responsible for the off-campus learning experience.

- b) The school shall furnish the Superintendent with a certificate of insurance which indicates compliance with the minimum amounts of liability insurance required by this Section.

- 1) The insurance policy shall provide that the company issuing the policy must give written notice to the Superintendent at least 30 days prior to the effective date of a cancellation.
- 2) If the certificate does not so indicate, the insurer shall provide riders verifying coverage at all sites where instruction is being or will be given to Illinois students.

Section 451.240 Recordkeeping

- a) A school shall maintain and make available for inspection by the Superintendent a central repository of records necessary for its efficient and effective academic and business operations. Included shall be records for students, dropouts, and graduates.
- b) A school shall maintain permanent records suitable for transcript purposes for all Illinois students. Permanent student records shall be maintained for fifty (50) calendar years after the student has departed from the school and include at minimum:

- 1) the name and address of the school;
- 2) full name and address of the student;

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- 3) dates of attendance;
 - 4) course of instruction or subject;
 - 5) amount of credit, if any, for each subject;
 - 6) grade for each subject;
 - 7) statement of graduation or reason the student departed from the school.
- c) Any transcript issued shall, in addition to the information specified in subsection (b) of this Section, include the following:
- 1) signature and title of certifying official;
 - 2) seal of the school, if any;
 - 3) date of issue.
- d) In addition to student permanent records, a school shall establish and maintain student records for Illinois students who commence study at the school for a period of at least 3 calendar years from the date of student departure which shall include:

- 1) schedules of classes or required hours of attendance;
- 2) records of daily attendance and absences as maintained and reported to the chief managing employee by faculty and/or work supervisors;
- 3) evidence of regular reports to students on grades and rates of academic progress (e.g., grade reports, test results, academic warnings);
- 4) enrollment agreements and other contracts;
- 5) the student's payment record;
- 6) evidence of placement efforts (e.g., references provided to students, letters to employers, interview schedules) to secure employment for the student and the name, address, and telephone

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number of the graduate's employer if placement assistance is offered.

- e) A school shall not release, transfer, disclose or otherwise disseminate student records or information contained therein unless upon the student's written request, except: to an authorized employee or an official of the school; to a representative or designee of the school's nationally recognized accrediting agency; or persons authorized or required to have such information by state or federal law or pursuant to a court order; or to the Superintendent.
- f) Students shall have the right to review their student records, including grades and attendance.
- g) A school shall develop and enforce security measures to protect permanent student records from damage or destruction for the period required under Section 7(3) of the Act.

Section 451.250 School Advertising

- a) The school and its agents shall not make or cause to be made any oral, written, or visual presentation in connection with the offering or publicizing of a subject or course of instruction which is false, deceptive, inaccurate, or misleading.
- b) A school shall submit with its original application all materials designed for direct mailing or media presentation in Illinois to the Superintendent for review for compliance in accordance with standards set forth in this Part. In its advertising, a school shall:
 - 1) limit reference to its approved status to: "Certificate of Approval To Operate Issued By the Illinois State Superintendent of Education";
 - 2) disclose it is a home study or home study/in-residence school if it provides such instruction;
 - 3) use photographs or other illustrations of school facilities only if these are the facilities being used to provide instruction (in the case of

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national advertising, the facilities shown must be representative of those which will be used);

- 4) use photographs or other illustrations in ways which accurately portray the size and location of the school, its equipment and facilities or the career for which the student is being trained (in the case of national advertising, the school, equipment, and facilities portrayed must be representative of those which will be used or provided);
- 5) advertise starting salaries of its former students only if these claims can be documented for the most recent 12 month period.
- c) In its advertising, a school shall not:
 - 1) describe its courses of instruction and subjects in a manner other than the approved title designations recorded on its current certificate of approval;
 - 2) represent that it is endorsed by or affiliated with a college or university or other school of higher learning unless such statement is true;
 - 3) advertise the transferability of its credits to colleges or universities unless it has written evidence on file of current acceptability of such credits from colleges and universities, state approval and accrediting authorities, or the American Council on Education;
 - 4) advertise it is endorsed by manufacturers, business establishments, or organizations engaged in the line of work for which it gives training unless it has on file written evidence of each such endorsement with the name and address of the endorser and the date of endorsement;
 - 5) advertise accredited status unless such status has been received from an accrediting body currently listed as recognized by the U.S. Department of Education;

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- 6) advertise as an employment agency or under the same or similar name as such an agency or knowingly advertise training courses in the "Help Wanted" section of any newspaper;
- 7) make statements assuring or guaranteeing membership in a union or other organization as a result of completing the course of instruction unless this fact can be documented;
- 8) advertise any tuition, fees, or other charges in amounts other than those currently on file with the Superintendent or advertise them without showing the total cost, including fees;
- 9) represent that a course of instruction has been recently revised, that it has a revision system or service, or represent in any manner its ability to keep a course of instruction current unless this can be verified.
- d) A school making original application or seeking approval for a new course of instruction may submit a written petition to the Superintendent requesting permission to advertise prior to receipt of approval. The school will be authorized to advertise for a period no longer than ninety (90) calendar days prior to its projected starting date. The authorization will be granted within ten business days of receipt of:
 - 1) a completed application; and
 - 2) the requisite fee, as specified in the Act.
- e) The school receiving approval to advertise shall adhere to the requirements of this Section. It shall not advise or advertise it is approved until a certificate of approval has been received from the Superintendent.

Section 451.260 School Catalog/Bulletin

- a) The catalog/bulletin shall be the school's principal printed means to explain its operations and requirements to prospective and enrolled students. It shall be current, complete and accurate for each school term.

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- b) A school shall furnish each applicant with a copy of its most recent catalog/bulletin, together with any supplements and/or errata sheets prior to the applicant's signing of an enrollment agreement.
- c) Descriptions of courses of instruction and subjects shall be consistent with curricula previously approved by the Superintendent.
- d) If the catalog/bulletin includes names of teaching faculty, such names shall be accurate as of the date of issue of the school's certificate of approval.
- e) At the time of renewal application the school shall submit three copies of its current catalog/bulletin and supplements and errata sheets.
- f) The catalog/bulletin shall include the following information:
 - 1) the school's philosophy and objectives;
 - 2) month and year of publication;
 - 3) names, addresses, and telephone numbers of the school's administrative offices and all teaching locations;
 - 4) a description of each course of instruction in clock hours or credit hours;
 - 5) criteria for the issuance of certificates and/or diplomas;
 - 6) admissions policies, including prerequisites for admission;
 - 7) grading scales and standards of student progress;
 - 8) specific policies on advanced standing, if any;
 - 9) schedule of tuition, fees and costs for books, supplies, equipment, services, rentals, deposits, housing costs;
 - 10) methods of student payment;

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- 11) the school's refund policy for unearned tuition, fees, and other charges;
 - 12) academic calendar;
 - 13) policies pertaining to absences and tardinesses and rules of conduct or a statement indicating where such policies may be found;
 - 14) procedures for obtaining student transcripts;
 - 15) a description of student services, if any;
 - 16) a description of the placement assistance offered, if any.
- g) The catalog/bulletin shall include the following notice: "Certificate of Approval To Operate Issued By The Illinois State Superintendent Of Education, 100 North First Street, Springfield, Illinois 62777."
 - h) Supplements or errata sheets for the catalog/bulletin shall be filed with the Superintendent before or at the time of implementation of changes and shall include the date of printing thereon. In the event that information on a supplement or errata sheet supersedes other information in the catalog/bulletin, the sheet shall indicate this fact and identify the page and location of the superseded information in the catalog/bulletin.
- Section 451.270 Instructional Program and Services
- a) A school shall design courses of instruction which impart knowledge, develop skills, and effectively prepare students for employability in the occupations for which they are being trained.
 - 1) Approved courses shall be implemented fully and taught in accordance with conditions for approval set by the Superintendent as required in this Section.
 - 2) The school shall evaluate and update its approved curriculum on forms and with procedures of its own design.

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- b) A school's objectives for its courses of instruction shall be consistent with its purpose and shall be supported by policies and procedures which develop performance standards to be used in measuring the accomplishment of its students.
- c) No course of instruction or subject shall be taught without written approval from the Superintendent in accordance with subsections (c)(1) and (c)(2).
- 1) The school shall not make any major changes in its approved courses or subjects without prior consent from the Superintendent.
- 2) The Superintendent shall approve changed courses only after applying the same criteria set forth in this Section for granting original course and subject approval.
- d) A school shall establish explicit objectives regarding student learning for each course of instruction and subject offered. The objectives shall include statements of the specific knowledge and skills each student must achieve by the time of course completion.
- e) A school shall have current, comprehensive, organized, and detailed instructional outlines, courses of study, syllabi, teaching guides, and lesson plans which indicate scope and sequence of subject matter and learning experiences sufficient for students to achieve announced objectives for each course of instruction and subject.
- 1) Each teacher shall have the school's curriculum materials for assigned subjects in his/her possession and be knowledgeable of their contents prior to teaching these subjects.
- 2) The school's administration shall require each teacher to use the school's curriculum materials.
- f) A school shall determine the total number of hours required for completion of each course of instruction and subject and the total amount of time to be devoted to each phase within each course and subject.

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- 1) The school shall establish the number of hours students are to spend in classroom, practice, and work experience.
- 2) The school shall determine the educational content and length of the period of study for each course and subject only after considering and appraising information derived from research data, previous instructional experiences, the private practices prevailing in public and other private schools and in military, business, and industrial training programs.
- 3) The comprehensiveness, content, and length of the school's courses of instruction shall be consistent with its explicit learning objectives.
- g) A school shall utilize instructional methods which facilitate achievement of student learning objectives.
- 1) Faculty shall be competent in the methods the school has adopted as most appropriate for its curriculum and students.
- 2) The chief managing employee shall ensure that faculty members apply the methods adopted.
- h) The school shall use textbooks consistent with its identified curricular objectives for each of its courses of instruction and subjects.
- i) The school shall maintain the following information on its texts and home study lessons currently in use:
- 1) titles;
- 2) authors and/or contributing subject matter specialists;
- 3) publishers;
- 4) copyright dates.
- j) A school shall have samples of all tests and other student evaluation devices used by the school available for the Superintendent's inspection for a period of not less than one calendar year following such use.

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k) In-residence and home study/in-residence schools shall maintain and, upon the request of the Superintendent, provide their policies for limiting:

- 1) the number of classes a faculty member may be assigned to teach on any day when the school is in session;
- 2) the total number of students the faculty member may be assigned to teach in any week;
- 3) the total number of different subject preparations a faculty member may be assigned to teach on any day in any week.

l) In-residence and home study/in-residence schools shall maintain and, upon request of the Superintendent, provide their policies for determining maximum student/faculty ratios for each course of instruction and each subject within the course. Student/faculty ratio policies shall:

- 1) be varied to conform to the requirements for different courses of instruction and subjects;
- 2) give the rationale used to determine how the maximum class sizes for different courses and subjects were determined.

m) Except in circumstances where the school has presented evidence that the standards it uses are as effective in ensuring an opportunity for students to achieve stated course objectives, student-to-teacher ratios for classroom instruction shall not exceed 30:1 and for laboratory or clinical instruction shall not exceed 20:1.

n) Home study schools and home study/in-residence schools shall maintain and upon request of the Superintendent provide policies for determining the total number of faculty hours required weekly to process, correct, and return home study lessons and examinations. The policies shall provide for faculty responses to examinations with comments and suggestions for corrections of errors and apparent weaknesses to be

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returned within seven business days of receipt of the lessons and examinations at the school.

o) In-residence schools shall not assign a faculty member to teach more than one subject, or cause any faculty member to be responsible for instruction in two separate classrooms, during the same class period. A faculty member may teach more than one level of the same subject during the same class period, provided that in each such instance the school shall ensure that the instruction provided to each student is appropriate to his or her level. Evidence of compliance with this requirement shall be:

- 1) individual instructional programs; or
 - 2) class grouping and instruction by ability level.
- p) Approval of a course of instruction shall be continuous providing:

- 1) the school continues to have approved status;
- 2) the scope and sequence of the course is the same as that previously approved by the Superintendent;
- 3) the course of instruction has been taught during the previous approval year;
- 4) the school continues to have approved faculty for the course of instruction pursuant to Section 451.410.

Section 451.280 Home Study and Home Study/In-Residence Schools

a) The Superintendent shall approve home study courses of instruction only after determining that they meet the requirements stated herein. The home study school shall provide the Superintendent with a description of each course indicating all materials supplied to the student. The Superintendent may request such materials for any of the courses, and the school shall supply the materials it sends to its students for that course.

b) The home study course of instruction shall be:

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- 1) suitable for a student to learn by self-direction with assistance that will be provided by the school;
- 2) consistent with the educational background, reading ability, and interests of the school's students;
- 3) organized sequentially in units from rudimentary to advanced, with transitional materials to guide students through the course of study;
- 4) designed to be current, and to meet actual job requirements for the school's graduates;
- 5) developed with the content necessary to ensure students will master the necessary skills and knowledge required for employment in the occupation for which they are being trained;
- 6) designed to permit the student to measure his/her progress and to apply knowledge learned (e.g., student checklist, examinations, sample problems and exercises).
- c) Except for material especially included to give instructions and to assist and encourage the student to complete his/her studies successfully, the home study course of instruction shall be limited to subject matter, pictures, and graphics which are relevant to the course's specific occupational objectives.
- d) Home study examinations shall:
 - 1) measure the extent of the student's mastery of each lesson and of the total course of instruction;
 - 2) correspond with course objectives and the requirements for employment in the field.
- e) The home study school shall maintain a progress evaluation record.
- f) Prior to the approval of any course of instruction, the home study school shall provide the Superintendent with:

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- 1) names of the authors and/or contributing subject matter specialists for all lessons and instructional materials, including a statement of their qualifications in the instructional field;
 - 2) minimum passing scores for its tests and examinations.
 - g) A home study/in-residence school shall not use the home study portion as the principal basis for the in-residence phase of instruction.
 - 1) The school may use home study materials for a short review at the beginning of the in-residence phase.
 - 2) The school shall not allow a student who has not successfully completed all home study examinations with passing grades to enter the in-residence phase of instruction.
 - h) Unless otherwise specified, all requirements in this Part for in-residence schools shall apply to the in-residence phase of a home study/in-residence course of instruction.
- Section 451.290 Student Work Experience
- a) A school may, with the Superintendent's written approval, place students on work assignments to gain practical experience in the occupations for which they are being trained.
 - 1) The Superintendent shall approve a work experience program only when the school has provided an educational rationale for the program and has established a system for providing constant and direct educational supervision, monitoring, and evaluation for the program.
 - 2) The school shall identify the supervisor(s) of its student work experiences.
 - b) If the sale of products or services is a necessary part of the school's course of instruction, the school shall not profit from such sale.

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- c) A school may employ students in other than work experience and compensate them for such employment.

Section 451.300 Instructional Equipment, Facilities and Materials

- a) Instructional equipment shall train and prepare students to use the types of equipment currently in use in business and industry. A school shall conduct its programs at sites and facilities related to the kinds of educational services it offers its students.
- b) A school shall annually provide the Superintendent with an inventory of all instructional equipment utilized by students and teachers for each course of instruction. The equipment shall meet the school's established criteria for model/kind, quantity, and recency of manufacture.
- c) A school shall annually examine its inventory of instructional equipment and materials to determine suitability for its programs.
- d) Equipment and materials shall be available in sufficient quantities to permit students to develop skills at expected levels and permit productive use of the student's time when engaged in scheduled skill, shop, and laboratory activities.
- e) Supplementary reading material needed for completing the reading assignment for each subject as assigned must be made accessible to the student.

SUBPART C: SCHOOL PERSONNEL

Section 451.400 Administrator Qualifications

- a) The school shall establish and maintain specific written policies setting standards for qualification, supervision and evaluation of its administrators. The policies shall set minimum requirements for the employment of administrators, including previous training, teaching, administrative, and on-the-job experience in the occupational fields for which students are being trained.

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- b) Chief managing employees and their designated assistant chief managing employee(s) shall have the Superintendent's written approval prior to the date of official appointment. The Superintendent's approval is not required for any other administrator on the school's staff.
- c) All applications for approval of a chief managing employee or assistant chief managing employee(s) shall:
- 1) be submitted on forms provided by the Superintendent;
 - 2) be signed by the applicant and the chief managing employee who shall attest to the truthfulness and accuracy of the information contained therein;
 - 3) be accompanied by transcripts, letters, and documents showing that the applicant meets the standards set forth in this Part.
- d) At minimum, each chief managing employee shall possess one of the following qualifications:
- 1) graduation from a state approved, four-year, degree granting school with satisfactory completion of twenty-four (24) semester hours in administration/management, in professional education, or in one or more of the subject areas in which the school provides instruction;
 - 2) a combination of not less than 6,000 clock hours (the equivalent of 3 years) of training and on-the-job experience in one or more of the subject areas in which the school provides instruction and at least 2,000 clock hours (the equivalent of one year) of administrative/managerial experience.
- e) Each assistant chief managing employee shall at a minimum meet the qualifications of a chief managing employee or a faculty member as defined in this Part.
- f) A chief managing employee or assistant chief managing employee who complies with the requirements established in this Part shall not be relieved of the responsibility of complying with more stringent requirements established by any other state agency.

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- g) Approval of a chief managing employee or assistant chief managing employee terminates at cessation of employment at the school and is nontransferable to employment at another school.
- h) Persons approved as administrators prior to the date of adoption of this Part shall continue to be approved for the positions they held at the school before the adoption of this Part.

Section 451.410 Faculty Qualifications

- a) A school shall establish and enforce specific written policies setting standards for qualification, supervision, evaluation, and promotion of its faculty.
 - 1) The policies shall set minimum requirements for the employment of faculty, including previous training and on-the-job experience in the subject area for which the faculty applicant is being considered for employment or transfer.
 - 2) Qualification standards for faculty shall at least conform to the standards set forth in subsection (b) of this Section.
- b) At minimum each faculty member shall possess at least one of the following qualifications:
 - 1) graduation from a state approved, four-year degree granting school with satisfactory completion of no less than twenty-four (24) semester hours in the academic or vocational/skill subject area in which the applicant will be assigned to teach (Included in the twenty-four hours must be evidence of satisfactory completion of at least one three (3) semester hour college level course in each subject to which the faculty member is to be assigned.); or
 - 2) a combination of no less than 4,000 clock hours of successful training and on-the-job experience in the academic or vocational/skill subject area to which the faculty member is to be assigned; or

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- 3) completion of no less than 6,000 clock hours of successful on-the-job experience in the academic or vocational/skill subject area in which the applicant will be assigned to teach.
- c) A faculty member who complies with the requirements established in this Part shall not be relieved of the responsibility of complying with more stringent requirements established by any other state agency.
- d) Faculty approval by the Superintendent shall be for the specific subjects listed on the application for approval only, shall not be transferable from one school to another, and shall terminate on cessation of the faculty member's employment with the school.
- e) All applications for faculty approval shall:
 - 1) be submitted on forms provided by the Superintendent;
 - 2) indicate the specific subjects the applicant will teach;
 - 3) be signed by the applicant and the chief managing employee;
 - 4) be accompanied by official transcripts, letters, and documents which confirm that the applicant meets:
 - A) the school's employment standards for previous instruction, on-the-job experience, and mastery of the subject area to which the faculty member is to be assigned;
 - B) the minimum standards for faculty approval set forth in this Part.
- f) For purposes of this Section, documentation of on-the-job and teaching experience shall:
 - 1) be from any official providing the teaching or on-the-job experience of the applicant or from an administrator(s) at the previous place(s) of employment who can be reached for verification of the documentation submitted;

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- 2) state the period of employment;
- 3) describe the applicant's on-the-job experience and duties in detail.

g) In the event that the faculty member's former employer is no longer in business and/or the applicant's supervisor is no longer available to verify employment, the applicant shall submit an affidavit stating the facts concerning his or her work experience in lieu of the documentation specified in subsection (f) of this Section.

h) Substitute faculty shall meet the same qualifications as regular faculty, including the prior approval of the Superintendent.

i) If a school utilizes faculty assistants, it shall establish and maintain policies which set forth qualifications, duties and procedures for use of these personnel. Faculty assistants shall:

- 1) not be used as substitutes or replacements for regular faculty;
- 2) not be responsible for the overall evaluation of any student;
- 3) work under the direct supervision of approved faculty.

j) The school shall have and implement written policies to promote improvement of faculty competency in their occupational fields and in levels of performance in their teaching assignments.

k) A faculty member approved by the Superintendent to teach a specific subject(s) at the school prior to the date of adoption of this Part who has verification of qualification on file with the Superintendent shall continue to be approved to teach that subject(s) at the school.

- 1) After the date of adoption of this Part the school shall employ new faculty according to the following minimum standards:

- 1) Instructors employed as faculty in degree granting programs shall have a minimum of a baccalaureate degree from a state approved college or university with a major in the subject area in which they teach.

- 2) If the job objective for which the course of instruction is offered requires a valid license or certificate, the instructor shall hold such a license or certificate.

Section 451.420 Sales Representatives

a) Any person whose function is to sell courses of instruction or subjects for any school(s) doing business in Illinois at the school's principal place of business or elsewhere in the state may do so only after securing a sales representative's permit.

- 1) A person initiating any direct action (e.g., via personal contact with an individual or group, including dispensing sales literature to a person or group, or contact by telephone) to procure students for the school by requesting, inducing or persuading such prospective students to enroll shall be deemed to be a sales representative.

- 2) A person paid to provide names of prospective students who has not had direct contact with the prospective student shall not be deemed to be a sales representative.

- 3) Sales representatives may be employees of the school or independent contractors employed for sales purposes.

b) Sales representative permits shall be issued only after the approval of the school by the Superintendent. A permit holder shall comply with the requirements of the Act and this Part.

c) Sales representative permits shall be nontransferable and shall expire on December 31 of each year.

d) A school with sales representatives shall maintain and have available for review a description of the

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procedures used to provide supervision of its representatives to assure compliance with the Act and this Part.

- e) Prior to the issuance of a sales representative's permit card by the Superintendent and as a part of a representative's original application for a permit card, an official of the school shall certify that the applicant has completed the school's prescribed training and has read and understands this Part.
- f) If for any reason the representative's permit card is lost or stolen, the school shall notify the Superintendent by the most expedient means. Upon receipt of a written request the Superintendent shall issue a replacement card without charge.
- g) A sales representative shall, whenever representing a school:
 - 1) report immediately to the administrator or designee at any recruitment site visited prior to any student interviews or presentations;
 - 2) make no statements which are false, misleading or fraudulent;
 - 3) respond upon request with information relevant to the prospective student's enrollment decision, to the extent to which such information is not confidential;
 - 4) use only advertising approved by the school;
 - 5) provide a copy of the school's catalog/brochure to high school administrators or counselors prior to making any presentation at a high school;
 - 6) disclose information on tuition and other instructional costs upon request by prospective students;
 - 7) explain the student's payment obligations as set forth in the enrollment agreement and explain the school's refund policy;

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- 8) make clear the school's academic policies and code of conduct;
 - 9) accurately describe the school's facilities and living accommodations and explain living costs;
 - 10) give a report on job prospects, if requested to do so;
 - 11) make available for review sample copies of the school's home study lessons prior to the student's signing of the enrollment agreement;
 - 12) explain the school's placement assistance, if any, and provide placement statistics as prescribed in the Act and this Part;
 - 13) explain the admission criteria for the school's course(s) of study;
 - 14) provide and explain the items of information required to be contained in the enrollment agreement by the Act and this Part;
 - 15) suggest that the prospective student visit the school to talk with teachers, guidance counselors, employment counselors and students.
- h) The sales representative shall not:
- 1) make false, inaccurate or misleading statements concerning any degree, certificate or diploma offered by the school;
 - 2) state that credits from the school are transferable unless such claims are supported by documentation (e.g., a letter or some form of communication attesting to the transferability of the credits) in the school's files;
 - 3) recommend a prospective student for acceptance unless the representative has reason to believe he/she has a chance to succeed;
 - 4) distribute home study lessons until the prospective student has been officially admitted by the school;

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- 5) collect any fee other than the enrollment fee prior to the student's official admittance;
- 6) represent that any commodity or service is free when, in fact, such commodity or service is regularly included as part of a course for which tuition or any other fee is paid;
- 7) SOLICIT PROSPECTIVE STUDENTS WITHIN 100 FEET OF ANY ILLINOIS DEPARTMENT OF PUBLIC AID OFFICE. (Section 11-2.1 of the Illinois Public Aid Code; Ill. Rev. Stat. 1988 Supp., ch. 23, par. 11-2.1)

i) The school shall monitor its representatives' activities and sales and marketing practices and immediately investigate and resolve complaints about their activities. The school shall be accountable for the adherence of its sales representatives to the Act and this Part.

j) Whenever a sales representative leaves the school's employment, the school shall within five (5) business days send the sales representative's notice of discharge or termination to the Superintendent.

- 1) When the school is unable to send the representative's permit card with the notice, it may notify the Superintendent that it will return the card within thirty (30) business days from the leaving date.

- 2) If the card has been lost or destroyed, or if the sales representative refuses to return the card, the school shall send a written notice to this effect to the Superintendent.

k) Illinois schools shall require new sales representatives with permits to sell in Illinois to visit the principal location of the employing school(s) prior to beginning sales activities. Out-of-state schools shall require new sales representatives to visit the principal location of the employing school(s) within sixty (60) days of initial employment.

Section 451.430 Sales Representative Bond

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a) A school shall file with the Superintendent a valid sales representative blanket surety bond to provide indemnification to any prospective or enrolled student suffering loss as a result of any fraud or misrepresentation by a sales representative in procuring a student's enrollment. The bond shall be written by a company authorized to do business in Illinois and shall:

- 1) indicate coverage in the penal sum of \$2,000 for each representative;
 - 2) show the maximum number of sales representatives covered;
 - 3) include coverage of representatives at any extension sites;
 - 4) be continuous to thirty (30) calendar days after the Superintendent's receipt of written notice of cancellation from the company issuing the bond.
- b) In the event of bond cancellation the school shall:
- 1) furnish a fully executed replacement to the Superintendent within thirty (30) calendar days of his/her receipt of notice from the bonding company;
 - 2) return all sales representative permit cards for cancellation if an appropriate bond replacement is not received by the Superintendent within the thirty (30) calendar days.

SUBPART D: STUDENTS

Section 451.500 Student Admissions Standards

a) The school shall provide to each prospective student its specific admission requirement for each course of instruction. Such requirements shall include evidence of satisfactory completion of secondary education or the G.E.D. examination, and/or other evidence predicting probable success of the student in the course of instruction. Schools not requiring successful completion of high school or the GED shall provide the Superintendent with evidence (e.g., letters

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or similar communications from employers) that such completion is not normally required for persons seeking placement in the occupations for which it trains students. The school shall maintain verifiable evidence that each student meets the school's admission standards for the course of instruction in which enrolled and that the admission standards provide reasonable indication of the student's potential for successful completion of the course of instruction.

b) A school shall evaluate each applicant's qualifications prior to his/her acceptance or rejection and shall, for seven (7) years, maintain records of this action for the Superintendent's inspection. The records should include specific, verifiable evidence that each student admitted has sufficient aptitude to meet the school's standards for admission into the course in which the student has enrolled.

c) When the school admits an applicant who does not meet all of its admissions standards, it shall record the reasons why the student was permitted to enroll and so inform the student.

d) A school may require applicants who do not meet its requirements for admission to satisfactorily complete remedial instruction prior to full admission status.

e) As evidence of student qualification, the school may use such devices or combination of devices as aptitude and ability test results, transcripts, letters of recommendation, proof of previous successful experience in the field, questionnaires, and structured admissions interviews. It may include records of such abilities or qualities as analytical thinking, problem-solving, personal responsibility, evenness of performance, motivation, maturity, promise in the field, leadership abilities, energy, self-confidence, relation of ability to achievement, written/oral expression, mathematical skills, dexterity and coordination, mechanical aptitude, and originality and imagination.

f) A SCHOOL SHALL NOT REFUSE TO ADMIT APPLICANTS ON ACCOUNT OF RACE, COLOR, CREED, SEX, PHYSICAL OR MENTAL HANDICAP UNRELATED TO ABILITY, RELIGION, OR NATIONAL ORIGIN (Section 16(11) the Private Business and

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Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 151).

g) Whenever required for licensure or entry into the field for which the applicant is to be trained, the school shall require evidence of a satisfactory physical examination or other specific qualification, such as bonding, prior to admitting the applicant. For example,

1) Applicants for truck driving schools shall meet the Illinois Department of Transportation and Illinois Secretary of State requirements prior to acceptance.

2) Applicants for flight programs shall meet the requirements of the Federal Aviation Administration prior to acceptance.

h) A school shall not enroll an applicant under the age of sixteen (16) or an applicant enrolled in an elementary or a high school in Illinois unless it has established through verifiable and recorded contact with responsible school officials (school superintendent, school principal, or designee) that, based on academic performance, the course will not be detrimental to the student's regular school coursework.

i) If a school enrolls students in courses of instruction preparing graduates for occupations generally requiring satisfactory completion of the twelfth grade or the GED, it shall require the applicant to provide evidence of equivalent life experience or to furnish an official high school transcript from a recognized high school, a copy of the GED certificate, or a statement signed by the applicant which attests to graduation and includes the date of graduation, name, address, and telephone number of the high school last attended.

j) A school through its catalog or similar descriptive literature shall inform each applicant prior to enrollment about:

1) its specific admissions requirements for each course of instruction which the applicant is considering;

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- 2) the general requirements for entrance into the occupations for which the student seeks training;
 - 3) its placement service, if a placement service is provided. Statistics for the 12 month period or calendar year immediately preceding the date of the school's application for annual renewal of its certificate of approval shall be provided for each course of instruction which the applicant is considering. These statistics shall include the number of students enrolled, the number of students who did not complete the course of instruction for which they enrolled, the number of graduates, the number of graduates who requested placement service, and the number of graduates who received bona fide job offers for the job for which they were trained. IN THE ABSENCE OF PLACEMENT STATISTICS FOR A NEW COURSE OF INSTRUCTION, THE ENROLLING REPRESENTATIVE SHALL DISCLOSE TO THE STUDENT THE PLACEMENT STATISTICS WHICH REPRESENT THE AGGREGATE OF ALL COURSES OF INSTRUCTION (Section 15.2 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1987, ch. 144, par. 150.2);
 - 4) its policies and procedures, if any, for granting advanced standing to qualified prospective students who have previously completed training and/or work experience in the field of intended study;
 - 5) its policies, if any, for shortening the period of study and reducing the cost of instruction for students admitted with advanced standing.
- k) A school shall not represent or imply that:
- 1) its graduates will be able to secure positions in a particular field because of completion of one or more of its courses of instruction if such positions are available only to persons with additional training and experience;
 - 2) it will accept a limited number of persons from a geographical area;

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- 3) it will accept applications for enrollment for only a limited period of time unless this fact can be verified;
 - 4) its credits are acceptable for admission or advanced standing at any school, college, or university unless it has previously filed evidence (e.g., a letter or some form of communication attesting to the transferability of the credits) to this effect with the Superintendent;
 - 5) applications must be submitted by a certain date to be acceptable for student admission unless this fact can be verified;
 - 6) any commodity or service is free when in fact such commodity or service is regularly included as part of the cost of instruction.
- 1) An out-of-state truck driving school shall disclose to its applicants prior to enrollment that graduates of such schools should normally have attained the age of twenty-one (21) prior to completion of the course of instruction. Such schools admitting students between the ages of eighteen (18) and twenty-one (21) shall require all applicants to sign a statement of understanding that employment with truck driving companies operating interstate is not possible until the applicant attains the age of twenty-one (21).
 - m) Home study/in-residence schools shall restrict admission in the home study phase to the number of students who can begin in-residence study within approximately sixty (60) calendar days of successful completion of home study.
 - n) Home study and home study/in-residence schools shall not distribute the first lesson until the applicant has been accepted by the admissions officer at the school's principal place of business.
- 1) Distribution of the first lesson shall be no later than ten (10) business days following the official date of admission.
 - 2) Home study schools shall not distribute more than approximately twenty (20) percent of the total

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number of home study lessons in the course of instruction to the student at any one time.

Section 451.510 Handicapped Students

- a) A school shall not deny admission to a student with a physical or mental handicap which is unrelated to the student's ability to successfully complete the student's intended course of instruction.
- b) If the school accepts a handicapped student it shall:
 - 1) accommodate the student's handicap in designing his or her educational program;
 - 2) maintain evidence on file that the student has been informed of requirements for minimum successful performance in the course of instruction and for entrance into the vocation for which the student seeks training (e.g., signed statement from the student, copy of information delivered to all students).

Section 451.520 Enrollment Agreements

- a) Each school shall utilize written enrollment agreements which specify both the school's and the student's legal obligations. The agreements shall contain all written disclosures required in Section 15.1 of the Act and be separate from any noncontractual documents utilized in the enrollment of students. Data required in Section 15.1(11) of the Act shall be reported as follows:
 - 1) data shall be compiled for the school's last completed fiscal year;
 - 2) the graduation or completion rate shall be calculated by dividing the total number of students who completed the course of instruction or graduated in that year by the total number of students who were originally scheduled to complete the course of instruction or graduate in that year;
 - 3) the placement rates shall be calculated from the data compiled for the year reported.

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- b) A school shall provide the applicant with:
 - 1) a copy of the enrollment agreement signed and dated by the sales representative and the applicant at the time the applicant makes initial payment of any fees, deposits, tuition, or other charges;
 - 2) signed, dated receipts for any monies collected from the student;
 - 3) a copy of the enrollment agreement or written notice of acceptance signed and dated by the chief managing employee or the admissions officer at the school's principal place of business at the time of official student acceptance at the school.
- c) A school may give the applicant a single copy of the agreement when the date of initial payment and the date of acceptance are the same.
- d) When the prospective student is under the age of eighteen (18), the agreement shall be signed by his/her parent or guardian.
- e) A school shall maintain copies of all signed agreements and any truth-in-lending disclosure pages in each student's permanent record.
- f) If the school receives payment of fees, deposits, or other charges in a single payment or by the payment of the enrollment fee and one additional payment, it may limit financial disclosures on the agreement to the enrollment fee and the cash price. If the student elects to make more payments than those described above, the agreement shall disclose the:
 - 1) enrollment fee;
 - 2) cash price;
 - 3) cash down payment;
 - 4) the difference between cash price and cash down payment, using the phrase "unpaid balance of cash price";

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- 5) the number, amount, and due dates or periods of payments scheduled for student repayments of indebtedness.
- 9) A school receiving multiple payments may provide information on financial disclosures required in subsection (f) of this Section on a separate page. The page shall be signed and dated by the sales representative and the student at the same time their signatures are affixed to the agreement.
- h) When the school assesses finance charges or offers discounts for early payment and time/price differentials, the agreement and disclosure pages shall:
 - 1) satisfy the requirements of the Retail Installment Sales Act (Ill. Rev. Stat. 1987, ch. 121 1/2, par. 501 et seq.);
 - 2) make clear that students are not required to make use of its finance plans.
- i) The agreement shall not contain a wage assignment provision and/or a confession of judgment clause.
- j) The agreement shall include a "NOTICE TO THE BUYER" which includes the following statements in a position above the space reserved for the student's signature:
 - 1) "Do not sign this agreement before you read it or if it contains any blank spaces.
 - 2) This is a legal instrument. Both sides of the contract are binding. Read both sides before signing.
 - 3) You are entitled to receive one copy of the agreement you sign and any information disclosure pages presented by the school.
 - 4) Under the law you have the right, among others, to pay the full amount due and to obtain under certain conditions a partial refund of the finance charge."

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- k) In addition to the information required by Section 15.1 of the Act, an enrollment agreement shall include:
 - 1) language explaining the agreement will be binding only when the agreement is accepted, signed and dated by the authorized official of the school or the admissions officer at the school's principal place of business;
 - 2) a statement in which the student attests to having received the school's current catalog/bulletin, any supplements and errata sheets, and the data required in Section 15.1-11 of the Act;
 - 3) a space for the sales representative to indicate by signature his/her compliance with the Act and this Part;
 - 4) a statement that any changes in the agreement shall not be binding on either the student or the school unless such changes have been approved in writing by the authorized official of the school and by the student or the student's parent or guardian if the student is a minor;
 - 5) the date by which instruction must be completed if the school provides instruction by home study and limits the period of time for completion of that instruction;
 - 6) a statement that terms and conditions of the agreement are not subject to amendment or modification by oral agreement;
 - 7) its current printing date.
- l) Information required in subsection (k)(5) of this Section need not be printed on the agreement but may be added to the agreement by the sales representative in space provided. The information shall be entered on the agreement prior to the time of applicant's signature.
- m) The school may reserve the right in the agreement to make revisions in the course of instruction during the period of the student's enrollment providing this right is conditioned upon the Superintendent's prior approval

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of the revision in accordance with the requirements for the approval of curricular changes in this Part.

- n) When, pursuant to the Act and this Part, any agreement the school enters into with a student is found by the Superintendent to be a violation of the Act or this Part, the school shall refund all monies to the student within five (5) business days.
- o) IF THE RIGHT TO CANCEL IS NOT GIVEN TO ANY PROSPECTIVE STUDENT AT THE TIME THE ENROLLMENT IS SIGNED, THE STUDENT HAS THE RIGHT TO CANCEL THE AGREEMENT AT ANY TIME AND RECEIVE A REFUND OF ALL MONIES PAID TO DATE WITHIN 10 DAYS OF CANCELLATION (Section 15.1 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 150.1).
- p) The school shall file a copy of each Illinois student's signed enrollment agreement with the Superintendent within (30) days following the end of the calendar year.

Section 451.530 Student Obligations, Cancellation and Refund Policies

- a) The following definitions, in addition to those found in Section 1 of the Act, shall apply to the school's policies for the assessment of student fees and for obligations and refunds:
 - 1) "Academic (school) year" is an instructional period extending no longer than fifty-two (52) weeks from the date of its initiation to its conclusion.
 - 2) "Class day" is any day on which instruction is provided by the school and on which the student is scheduled to attend; not included are holidays, scheduled vacation periods, other days on which instruction is not provided, and periods for which a student is granted a leave of absence.
 - 3) "Clock or class hour" is one period of instruction given to one student; the periods may range from forty-five (45) to sixty (60) minutes in duration. "Clock hours or class hours" are not the same as

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- "credit hours." Credit hours are normally identified as "semester hours" or "quarter hours."
- 4) "Enrollment fee" is a one-time student fee, assessed at the time of the student's initial enrollment at the school.
- 5) "Home study/in-residence instruction" is a course of instruction which consists of both home study lessons and in-residence classes at the school's site.
- 6) "Home study lesson" is the term used by home study schools to describe a single unit in a uniform series of units of correspondence instruction.
- 7) "Pro rata refund policy" is a policy computed on the number of clock or class hours completed or home study lessons serviced in the total course completed by the student.
- 8) "Terms" are regularly established equal divisions of the academic (school) year from ten (10) to nineteen (19) weeks long, each with an established starting and ending date; they are normally called quarters, trimesters, or semesters.
- 9) "Total cost of the course of instruction" is, for purpose of refund calculations, the sum found on the enrollment agreement of all required charges made for direct instruction and obligatory items of extra expense to the student, such as instructional supplies, tools, student activities, fees, laboratory and studio fees, service charges, rentals and other miscellaneous charges; it does not include the enrollment fee, charges for room and board, or any required accident or health insurance premiums paid by the student directly to an insurance carrier.
- 10) "Total cost of the term" is, for purpose of refund calculations, the sum of the same required and obligatory charges itemized in the definition of "total cost of the course of instruction" but which are assessed for a specific term only; not included are the enrollment fee and charges for room and board in the term.

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- b) A school and its sales representatives enrolling prospective students shall collect no more than the amount of the application-registration fee which may not exceed \$100 until the student has been formally admitted following the admissions screening process and the school's approval and signing of the enrollment agreement at the school's principal location.
- c) A school shall publish and adhere to refund policies as required by Section 15.1a of the Act.
 - 1) The school shall not receive, demand, or retain any amount in excess of proportions and dollar amounts disclosed in the enrollment agreement and catalog/bulletin for the term in which the student is enrolled.
 - 2) The student's total financial obligation for instruction shall not be more than the total contract price for the academic (school) year in which the student is enrolled.
 - 3) The school shall return that portion of any refunds due to sponsors furnishing grants, loans, scholarships or other financial aids in conformity with federal and state laws, and regulations and requirements of financial aid sponsors. After any disbursements to financial aid sponsors, the student shall receive the balance, if any, of the amount due under the school's refund policy.
- d) Student refunds shall be processed promptly and in accordance with the following requirements as may be applicable.
 - 1) If a letter of withdrawal is submitted, it shall be addressed to the registered agent, if any, the managing employee of the school, or to the person designated by the school in its enrollment agreement. The date of withdrawal initiated by a student shall be the date the letter of withdrawal is postmarked or, when the notice is hand-carried, it shall occur on the date the notice is delivered. The school shall provide a receipt for each letter of withdrawal received.

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- 2) An in-residence school shall inform the student as to his/her contractual obligation if the student fails to attend class or utilize instructional facilities for a period of ten (10) consecutive class days without providing, prior to or during that period, an explanation regarding the absences.
- 3) A home study school shall inform the student as to his/her contractual home study obligation if at any point during the course of instruction it has not received lessons for sixty (60) consecutive calendar days; the date of withdrawal shall be the date of the last lesson received.
- 4) A school may give an in-residence or home study student who has withdrawn the opportunity to apply for reinstatement in writing and keep his/her enrollment active without prejudice to the student's refund rights.
- 5) A school shall notify any agency known to the school to be providing financial aid to the student of any withdrawal within thirty (30) days from the date of withdrawal.
- 6) A school shall maintain accurate current records which make possible prompt return of funds in the correct amount.
 - e) In the event a student withdrawing from a course of instruction is less than eighteen (18) years of age on date of withdrawal, notice of cancellation shall be made by the purchaser of the enrollment agreement.
 - f) A school shall refund all monies paid to it if the school did not screen the student, including physical examinations required for occupational licensure, to determine that the student meets its admission standards prior to the date of the student's admission.
 - g) For home study instruction, all references to class attendance or days in class in Section 15.1a of the Act shall refer to lessons completed by the student and serviced by the school.

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- h) Refunds for the home study/in-residence portions of a combination home study/in-residence school must be computed and stated separately.

- 5) solicit or permit its sales representatives to solicit students through a placement or employment agency.

Section 451.540 Student Personnel Services

Section 451.555 Student Progress

- a) If the school purports to provide student personnel services, it shall provide those services as advertised.
- b) The school shall make known to students those personnel services provided.

- a) A school shall have and enforce written policies for defining acceptable student progress and academic good standing and shall maintain progress evaluation records which record the student's movement toward completing studies within the time allotted for completion of the curriculum.

Section 451.550 Placement Assistance

- b) Students enrolled in home study instruction shall be informed of their academic progress with the servicing of each examination. If at any point in the curriculum the student's average grades on examinations are less than those required for passing the total course, the student shall immediately be so informed in writing.

- a) A school is not required to offer placement assistance. If it does so, it shall disclose the nature of the assistance in its catalog.

- b) A school which offers or advertises placement assistance shall file an annual placement report with its renewal application to the Superintendent which shall:

Section 451.560 Student Attendance and Tardiness

A school shall adopt policies which stress the importance of regular attendance and shall inform the students about the details of such policies.

- 1) be signed and notarized as true and correct by its chief managing employee;

- 2) contain the statistics required by Section 15.2 of the Act.

Section 451.570 Student Conduct and Discipline

- a) The school shall adopt, enforce, and disseminate to its employees and students written policies to ensure standards of student behavior conducive to a favorable learning environment for all of its students.

- c) A school shall not:

- 1) make any placement guarantee;

- 2) advertise "lifetime" placement assistance;

- b) Sanctions shall not be imposed without determination by school officials of the nature of the offense in accordance with the school's published policies. This determination shall include a consideration of statements presented by the individuals involved.

- 3) promise a student a job which uses information, training, or skills provided by a course unless the school can offer the student a contract of employment for a period of not less than ninety (90) days in a business in which such information, training, or skill is a normal condition of employment;

- c) The school's policies shall allow a student to appeal to a school administrator to regain full standing after disciplinary action has been taken.

- 4) make additional charges for placement assistance;

- d) The school shall keep written records of the disposition of all disciplinary actions.

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OPERATING OFFICER OF THE SCHOOL CITED IN THE COMPLAINT (Section 17 of the Private Business and Vocational Schools Act; Ill. Rev. Stat. 1988 Supp., ch. 144, par. 152).

Section 451.580 Student Rights

- a) A school shall establish a procedure for the fair and prompt resolution of student grievances concerning instructional and business affairs. The procedures shall specify the reasons for which a conference or hearing may be requested and require the recording of any findings.
- b) A student's records, including attendance records, shall be available for inspection on request by the student.
- c) A school shall terminate a student's enrollment when it has been documented that he/she is unable to remain in good academic standing and to acquire the knowledge and skills necessary for entering the occupation for which he/she is being trained.
- d) Schools shall post in a conspicuous place the statements, developed by the Superintendent, of students' rights provided under the Act.

Section 451.590 Student Complaints

- a) A school shall resolve student complaints promptly and fairly and shall not subject a student to punitive action because of written grievances having been filed with the school or the Superintendent.
- b) The school shall maintain a written record of its handling of all student complaints.
- c) ANY STUDENT OR EMPLOYEE OF A SCHOOL APPROVED BY THIS ACT WHO BELIEVES HE HAS BEEN AGGRIEVED BY A VIOLATION OF THIS ACT SHALL HAVE THE RIGHT TO FILE A WRITTEN COMPLAINT WITHIN ONE YEAR OF THE ALLEGED VIOLATION. THE SUPERINTENDENT SHALL ACKNOWLEDGE WITHIN 20 DAYS RECEIPT OF SUCH WRITTEN COMPLAINT. THE SUPERINTENDENT SHALL ISSUE A WRITTEN FINDING AS TO WHETHER THERE IS GOOD CAUSE TO INITIATE DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT. THE SUPERINTENDENT SHALL FURNISH SUCH FINDINGS TO THE PERSON WHO FILED THE COMPLAINT AND TO THE CHIEF

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NOTICE OF ADOPTED REPEALER

- 16) Information and questions regarding this adopted repealer shall be directed to:

Name: Roy McDermott
 Address: Illinois State Board of Education
 100 North First Street
 Springfield, Illinois 62777-0001
 Telephone: (217) 782-5518

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- 1) The Heading of the Part: Organic Material Emission Standards and Limitations
- 2) The Code Citation: 35 Ill. Adm. Code 215
- 3) Section Number: 215.214
 Adopted Action: Add
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111, pars. 1010 and 1027
- 5) Effective Date of Rule: May 8, 1990
- 6) Does this rulemaking contain an automatic repeal date?: YES
 If so, please specify date: January 1, 2000
- 7) Does this rule contain incorporations by reference? NO
 If "yes," was a copy of the approval form issued by JCAR attached to this rulemaking?
- 8) Date Filed in Agency's Principal Office: July 19, 1988
- 9) Notice of Proposal Published in Illinois Register: 13 Ill. Reg. 12384, July 28, 1989
- 10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? NO. If answer is "yes," please complete the following:
- A) Statement of Objection: _____, Ill. Reg. _____
- B) Agency Response: _____, Ill. Reg. _____
- C) Date Agency Response Submitted for Approval to JCAR: _____
- 11) Difference(s) between proposal and final version:

As a result of first notice publication in the Illinois Register, the Board found that certain revisions were appropriate. Section 215.214(d) now establishes a specific economic benchmark for when a new compliant paint should be adopted for use. Section 215.215(e) provides for automatic termination of the site-specific relief on January 1, 2000.

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In addition, in response to the Joint Committee on Administrative Rule's recommendations, Section 215.214(b) has been revised so that the language maintains Roadmaster's responsibility to test new paints, yet is more specific.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?
YES

- 13) Will this rule replace an emergency rule currently in effect? NO

- 14) Are there any amendments pending on this Part? YES

Section Numbers:	Proposed Action:	Ill. Reg. Citation:
215.102	Amend	14 Ill.Reg. 2772 2/23/90
215.480	Amend	14 Ill.Reg. 2772 2/23/90
215.481	Amend	14 Ill.Reg. 2772 2/23/90
215.486	Amend	14 Ill.Reg. 2772 2/23/90
215.487	Amend	14 Ill.Reg. 2772 2/23/90
215.489	Amend	14 Ill.Reg. 2772 2/23/90

- 15) Summary and Purpose of Rule(s): Roadmaster seeks relief from the Board's limitations on the maximum permissible volatile organic matter ("VOM") emissions from two flowcoater units at its manufacturing facility near Olney, in Robinson County, Illinois. Roadmaster requests that the Board adopt a site-specific rule granting it an exception for the VOM emissions from its existing black and white flowcoaters. Roadmaster requests a ceiling of 5.9 pounds of VOM per gallon of paint, which would allow running exclusively black paint with a modest margin for variation (0.16 lb/gal). Roadmaster also requests that the Board base the rule on weekly averaging, to account for daily and seasonal variations.

The Board adopts a rule that grants the requested relief with conditions substantially similar to those stipulated by the Agency and Roadmaster. The record supports several conclusions favoring such relief. First, Roadmaster is located in an attainment area for ozone. Second, the estimated VOM emissions in excess of the present rule would not likely cause or contribute to a violation of the NAAQS for ozone. Finally, requiring Roadmaster to achieve compliance with the existing rule would impose an economic hardship on Roadmaster. Therefore, site-specific relief from the generally-applicable rules is warranted for Roadmaster.

- 16) Information and questions regarding this adopted rule shall be directed to:

Margaret Dolan Fliss
100 W. Randolph Street
State of Illinois Center
Suite 11-500
Chicago, IL 60601
(312) 814-6062

The full text of the adopted rule(s) begins on the following page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER C: EMISSIONS STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 215

ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

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AUTHORITY: Implementing Section 22 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111-1/2, pars. 1022 and 1027).

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601; Notice of Corrections at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650,

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effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989.; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990. Emergency amendments adopted in R88-30(A) at 14 Ill. Reg. 6421, effective April 11, 1990, for a maximum of 150 days; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990.

Section 215.214 Roadmaster Emissions Limitations

Notwithstanding the limitations of Section 215.204(j)(3), the Roadmaster Corporation, Olney, Illinois, shall not cause or permit the emission of volatile organic material from its existing black and white flowcoating operations to exceed a weekly average of 5.9 lb/gal; Roadmaster shall fulfill all of the following conditions:

- a) Roadmaster shall contact at least three paint vendors each year in a continuing search for a compliant coating that it can successfully use in its existing flowcoating/oven operations, including any paint vendors suggested by the Agency in a writing delivered to Roadmaster by certified mail;
- b) If any vendor provides Roadmaster with laboratory test results which demonstrate that Roadmaster may be able to use the vendor's paint in its existing flowcoater and oven as a substitute for the existing paint, Roadmaster will conduct production tests of that paint;
- c) Roadmaster will submit a report to the Agency by March 1 of each year that includes a summary of its efforts during the preceding calendar year, as those efforts relate to Roadmaster's compliance with the foregoing conditions contained in subsections (a) and (b), above;
- d) If Roadmaster locates a compliant paint that it can successfully use in its existing flowcoating operations, and the net annual expense of using the compliant paint is not more than 10 percent greater than the then current net annual expense incurred in the existing painting process, Roadmaster shall convert its present flowcoating operations to the use of that paint within 180 days after the final successful testing of such a paint; and
- e) This Section shall expire on January 1, 2000, at which

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

time Roadmaster shall comply with the provisions that generally apply to VOM emissions.

(Source: Added at 14 Ill. Reg. 7596, effective May 8, 1990.)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: PRETREATMENT PROGRAMS

2) Code Citation: 35 Ill. Adm. Code 310

3) Section Numbers: Adopted Action:

310.107 Amendment

310.110 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1013, 1013.3, and 1027.

5) Effective Date of Amendments: May 8, 1990

6) Does this rulemaking contain an automatic repeal date? No.

7) Do these amendments contain incorporations by reference?

Yes. The amendments update existing incorporations of provisions of the Code of Federal Regulations by reference to the 1989 edition of that Code and add an incorporation of a federal statute by reference.

8) Date filed in Board's Principal Office: Order adopted April 12, 1990.

9) Notice of Proposal Published in Illinois Register:

December 29, 1990, 13 Ill. Reg. 20240

10) Has JCARR issued a Statement of Objections to these rules? No.

Section 13.3 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1013.3) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCARR.

11) Differences between proposal and final version:

Minor editorial differences. The Board has made the format revisions to the Board Notes in Section 310.110 suggested by the Secretary of State.

12) Have all the changes agreed upon by the Board and JCARR been made as indicated in the agreement letter issued by JCARR?

Section 13.3 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCARR.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace an emergency amendments currently in effect? No.
- 14) Are there any other amendments pending on this Part? No.
- 15) Summary and Purpose of Amendments:
- A complete description is contained in the Board's Opinion of April 12, 1990 in R89-12, which Opinion is available from the address below. Section 13.3 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- This rulemaking updates the Board's pretreatment rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period between January 1, 1989 through June 30, 1989. The Board amends the 35 Ill. Adm. Code 310.110 definition of "sludge requirements" to incorporate any requirements imposed by NPDES permit condition, whether by the Agency or USEPA. The Board amends all the incorporations of federal regulations by reference at Section 310.107(c) to the 1989 edition of the Code of Federal Regulations. The Board similarly updates the CFR references in the Board Notes of Section 310.110. The Board adds the name of the court and date of decision to the reference to *NRDC v. Costle* in Section 310.107(a), to complete that reference. Finally, the Board adds the phrase "et seq." to the statutory reference to Subtitles C and D of the Resources Conservation and Recovery Act in Section 310.107(c).

- 16) Information and questions regarding this adopted amendments shall be directed to:

Michael J. McCambridge
Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60610
312-814-6924

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 310
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

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310.104
310.105
310.107
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Applicability
Objectives
Federal Law
State Law
Confidentiality
Incorporations by Reference
Definitions
New Source

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Specific Prohibitions
Specific Limits Developed by POTW
Local Limits
Categorical Standards
Category Determination Request
Deadline for Compliance with Categorical Standards
Concentration and Mass Limits
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Combined Wastestream Formula

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Special Definitions
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Conditions for Authorization to Grant Removal Credits
Calculation of Revised Discharge Limits
Demonstration of Consistent Removal
Provisional Credits
Compensation for Overflow
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Application for Removal Credits Authorization
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Assistance of POTW
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310.411	Certification of Capacity
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310.413	Site Visit
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310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
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310.522	Contents of Program Submission
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310.541	Deadline for Review
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SUBPART F: REPORTING REQUIREMENTS

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310.601	Definition of Control Authority
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310.504	Incorporation of Compliance Schedules in Permits
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310.510	Pretreatment Program Requirements
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POLLUTION CONTROL BOARD

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310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
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310.702	Purpose and Scope
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SUBPART I: UPSETS

Section	
310.901	Definition
310.902	Effect of an Upset
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SUBPART J: BYPASS

Section	
310.910	Definition
310.911	Bypass Not Violating Applicable Pretreatment Standards or Requirements
310.912	Notice

POLLUTION CONTROL BOARD

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310.913 Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

Section

310.920 General

310.921 Procedures

310.922 Substantial Modifications

AUTHORITY: Implementing and authorized by Sections 13, 13.3, and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1013, 1013.3, and 1027 as amended by P.A. 85-1048, effective January 1, 1989).

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990.

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

a) The following publications are incorporated by reference:

1) The consent decree in NRDC v. Costle, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).

2) Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.

b) The following provisions of the Code of Federal Regulations are incorporated by reference:

40 CFR 2.302 (1989)

40 CFR 25 (1989)

40 CFR 122, Appendix D, Tables II and III (1989)

40 CFR 128.140(b) (1977)

40 CFR 136 (1989)

40 CFR 403 (1989)

40 CFR 403, Appendix D (1989)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

c) The following federal statutes are incorporated by reference:

1) Section 1001 of the Criminal Code (18 U.S.C. 1001) as of July 1, 1988

2) Clean Water Act (33 U.S.C. 1251 et seq.) as of July 1, 1988

3) Subtitles C and D of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) as of July 1, 1988

d) This Part incorporates no future editions or amendments.

(Source: Amended at 14 Ill. Reg. 7608, effective May 8, 1990)

Section 310.110 Definitions

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1001 et seq.)

"Agency" means the Illinois Environmental Protection Agency.

"Approval Authority" means the Agency.

BOARD NOTE: Derived from 40 CFR 403.3(c) (1989).

"Approved POTW Pretreatment Program" or "Program" or "POTW Pretreatment Program" means a program administered by a POTW which has been approved by the Agency in accordance with Sections 310.541 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.3(d) (1989).

"Authorization to discharge" means an authorization issued to an industrial user by a POTW which has an approved pretreatment program. The authorization may consist of a permit, license, ordinance or other mechanism as specified in the approved pretreatment program.

"Blowdown" means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

BOARD NOTE: Derived from 40 CFR 401.11(p) (1989).

"Board" means the Illinois Pollution Control Board.

"CWA" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(b) (1989).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Control authority" is as defined in Section 310.601.

"Indirect Discharge" or "Discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the CWA (33 U.S.C. 1317(b), (c) or (d)).

BOARD NOTE: Derived from 40 CFR 403.3(g) (19889).

"Industrial User" or "User" means a source of indirect discharge. As used in this part, an "industrial user" includes any person who meets any of the following criteria:

Discharges toxic pollutants as defined by 35 Ill. Adm. Code 307.1005.

Is subject to a categorical standard adopted or incorporated by reference in 35 Ill. Adm. Code 307.

Discharges more than 15% of the total hydraulic flow received by the POTW treatment plant.

Discharges more than 15% of the total biological loading of the POTW treatment plant as measured by the 5-day biochemical oxygen demand.

Has caused pass through or interference. Or,

Has presented an imminent endangerment to the health or welfare of persons.

BOARD NOTE: Derived from 40 CFR 403.3(h) (19889).

"Industrial wastewater" means waste of a liquid nature discharged by an industrial user to a sewer tributary to a POTW.

"Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge disposal in compliance with any "sludge requirements."

BOARD NOTE: Derived from 40 CFR 403.3(i) (19889).

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"Municipal sewage" is sewage treated by a POTW exclusive of its industrial component.

"Municipal sludge" is sludge produced a POTW treatment works.

"Municipality." See "unit of local government."

"New source" means "new source" as defined in Section 310.111.

BOARD NOTE: Derived from 40 CFR 401.11(c) and 403.3(k) (19889).

"Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

BOARD NOTE: Derived from 40 CFR 401.11(n) (19889).

"Noncontact cooling water pollutants" means pollutants present in noncontact cooling waters.

BOARD NOTE: Derived from 40 CFR 401.11(o) (19889).

"NPDES Permit" means a permit issued to a POTW pursuant to Section 402 of the CWA, or Section 12(f) of the Act and 35 Ill. Adm. Code 309.Subpart A.

BOARD NOTE: Derived from 40 CFR 403.3(1) (19889).

"O and M" means operation and maintenance.

"Pass through" means a discharge of pollutants which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

BOARD NOTE: Derived from 40 CFR 403.3(n) (19889).

"Person" means an individual, corporation, partnership, association, State, "unit of local government" or any interstate body. This term includes the United States government, the State of Illinois and their political subdivisions.

BOARD NOTE: Derived from 40 CFR 401.11(m) (19889) and 33 U.S.C. 1362(5).

"Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into a sewer.

BOARD NOTE: Derived from 40 CFR 401.11(f) (19889).

POLLUTION CONTROL BOARD

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"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

BOARD NOTE: Derived from 40 CFR 401.11(g) (1988g).

"POTW" means "Publicly Owned Treatment Works," which is defined below.

"POTW Treatment Plant" means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater.

BOARD NOTE: Derived from 40 CFR 403.3(p) (1988g).

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by Section 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings which might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Section 310.233.

BOARD NOTE: Derived from 40 CFR 403.3(g) (1988g).

"Pretreatment permit" means an authorization to discharge to a sewer which is issued by the Agency as the control authority.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

BOARD NOTE: Derived from 40 CFR 403.3(r) (1988g).

"Pretreatment standard," or "standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to Section 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102 and 307.1103. The term also includes local limits pursuant to Section 310.211 which are a part of an approved pretreatment program.

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BOARD NOTE: Derived from 40 CFR 403.3(j) (1988g).

"Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

BOARD NOTE: Derived from 40 CFR 401.11(q) (1988g).

"Process wastewater pollutants" means pollutants present in process wastewater.

BOARD NOTE: Derived from 40 CFR 401.11(r) (1988g).

"Publicly owned treatment works" or "POTW" means a "treatment works" which is owned by the State of Illinois or a "unit of local government." This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "unit of local government" which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

BOARD NOTE: Derived from 40 CFR 403.3(o) (1988g).

"Schedule of compliance" means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.

BOARD NOTE: Derived from 40 CFR 401.11(m) (1988g) and 33 U.S.C. 1362(17).

"Sludge requirements" means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits), the Toxic Substances Control Act (15 U.S.C. 2601) or the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401). Section 39(b) of the Act (NPDES Permits), and Section 405(b) of the Clean Water Act (federally-imposed sludge use and management requirements).

BOARD NOTE: Derived from 40 CFR 403.3(i) (1988g) and 403.7(a) (1988g).

"Submission" means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.

BOARD NOTE: Derived from 40 CFR 403.3(t) (1988g).

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"Treatment works" is as defined in 33 U.S.C. 1292(2) (1987). It includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal or industrial wastewater to implement 33 U.S.C. 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment.

BOARD NOTE: Derived from 40 CFR 403.3(o) (1988) and 33 U.S.C. 1292(2).

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, having jurisdiction over disposal of sewage. "Unit of local government" includes, but is not limited to, municipalities and sanitary districts.

BOARD NOTE: Derived from 40 CFR 401.11(m) (1988) and 33 U.S.C. 1362(4).

"USEPA" means the United States Environmental Protection Agency.

(Source: Amended at 14 Ill. Reg. 7608, effective May 8, 1990)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: SEWER DISCHARGE CRITERIA

2) Code Citation: 35 Ill. Adm. Code 307

3) Section Numbers: Adopted Action:

307.2490 Amendment

307.2491 Amendment

307.8103 Amendment

307.8109 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1013, 1013.3, and 1027.

5) Effective Date of Amendments: May 8, 1990

6) Does this rulemaking contain an automatic repeal date? No.

7) Do these amendments contain incorporations by reference?

Yes. The amendments update existing incorporations of provisions of the Code of Federal Regulations by reference to the 1989 edition of that Code.

8) Date filed in Board's Principal Office: Order adopted April 12, 1990.

9) Notice of Proposal Published in Illinois Register:

December 29, 1990, 13 Ill. Reg. 20257

10) Has JCAR issued a Statement of Objections to these rules? No.

Section 13.3 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1013.3) provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposal and final version:

None.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?

Section 13.3 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

first notice or to second notice review by JCAR.

- 13) Will these amendments replace an emergency amendments currently in effect? No.

- 14) Are there any other amendments pending on this Part? No.

- 15) Summary and Purpose of Amendments:

A complete description is contained in the Board's Opinion of April 12, 1990 in R89-12, which Opinion is available from the address below. Section 13.3 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Board's pretreatment rules to correspond with amendments adopted by USEPA which appeared in the Federal Register during the period between January 1, 1989 through June 30, 1989. The effect of the amendment to Section 307.2490 is to exclude "Anti-knock fuel additive/Blending purchased tetraethyl lead & tetraethyl lead additives" from the list of "non-complexed metal-bearing waste streams and cyanide-bearing waste streams" under lead in the organic chemicals, plastics, and synthetic fibers (OCPSF) category. The effect of the revision to Section 307.2491 is to exclude "Vat dyes/Mixing purchased dyestuffs (Anthraquinones, polycyclic Quinones and Indigoids)" under chromium and copper from the list of "complexed metal-bearing waste streams" in that category. For the Section 307.2491 revision, "Vat dyes" is substituted under chromium (as it already appears under copper). The effect of the amendments to Sections 307.8103(c)(1), 307.8103(d)(1), 307.8109(c)(1), and 307.8109(d)(1) is to provide an alternative to zero discharge of process wastewaters from tube reducing for new and existing sources in the nickel-cobalt and zirconium-hafnium forming subcategories of the nonferrous metals forming and metal powders point source category. Under the amendments, such entities may discharge their wastewaters if the results of monthly chemical analyses show no levels of three nitrosamines above the detection limits.

- 16) Information and questions regarding this adopted AMENDMENTS shall be directed to:

Michael J. McCambridge
Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60610
312-814-6924

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 307
SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

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307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties and Other Dairy Desserts
307.1509	Condensed Milk
307.1510	Dry Milk
307.1511	Condensed Whey
307.1512	Dry Whey

SUBPART G: GRAIN MILLS

Section	
307.1601	Corn Wet Milling
307.1602	Corn Dry Milling
307.1603	Normal Wheat Flour Milling
307.1604	Bulgur Wheat Flour Milling
307.1605	Normal Rice Milling
307.1606	Parboiled Rice Milling

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307.1607	Animal Feed
307.1608	Hot Cereal
307.1609	Ready-to-eat Cereal
307.1610	Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

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307.1700	General Provisions
307.1701	Apple Juice
307.1702	Apple Products
307.1703	Citrus Products
307.1704	Frozen Potato Products
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307.1706	Canned and Preserved Fruits
307.1707	Canned and Preserved Vegetables
307.1708	Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

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307.1801	Farm-raised Catfish
307.1815	Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

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307.1901	Beet Sugar Processing
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Chromic Acid Production
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 307.3301 Steam Electric Power Generating

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 307.3402 Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
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307.7600 General Provisions

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307.8107 Uranium Forming

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307.8110 Metal Powders

Appendix References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1013, 1013.3 and 1027).

SOURCE: Adopted in R70-5, at 1 PCB 426, March 31, 1971; amended in R71-14, at 4 PCB 3, March 7, 1972; amended in R74-3, at 19 PCB 182, October 30, 1975; amended in R74-15, 16, at 31 PCB 405, at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17, at 31 PCB 713, at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R89-12 at 14 Ill. Reg. 7620 , effective May 8, 1990 .

SUBPART O: ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS

Section 307.2490 Non-complexed Metal-bearing and Cyanide-bearing Wastestreams

The Board incorporates by reference 40 CFR 414, Appendix A (1989), as adopted at 52 Fed. Reg. 42569, November 5, 1987. This incorporation includes no later amendments or editions.

(Source: Amended at 14 Ill. Reg. 7620 , effective May 8, 1990)

Section 307.2491 Complexed Metal-bearing Wastestreams

The Board incorporates by reference 40 CFR 414, Appendix B (1989), as adopted at 52 Fed. Reg. 42569, November 5, 1987. This incorporation includes no later amendments or editions.

(Source: Amended at 14 Ill. Reg. 7620 , effective May 8, 1990)

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section 307.8103 Nickel-Cobalt Forming

a) Applicability. This Section applies to discharges resulting from the process operations of the nickel-cobalt forming subcategory.

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- b) Specialized definitions. None.
- c) Existing sources:
- 1) The Board incorporates by reference 40 CFR 471.34 (#9861989). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources:
- 1) The Board incorporates by reference 40 CFR 471.35 (#9861989). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.
 - 3) "New source" means any building, structure, facility or installation the construction of which commenced after March 5, 1984.

(Source: Amended at 14 Ill. Reg. 7620, effective May 8, 1990)

Section 307.8109 Zirconium-Hafnium Forming

- a) Applicability. This Section applies to discharges resulting from the process operations of the zirconium-hafnium forming subcategory.
- b) Specialized definitions. None.
- c) Existing sources:
- 1) The Board incorporates by reference 40 CFR 471.94 (#9861989). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (1) shall cause, threaten or allow the discharge of any contaminant to a POTW in

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- violation of such standards.
- d) New sources:
- 1) The Board incorporates by reference 40 CFR 471.95 (#9861989). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.
 - 3) "New source" means any building, structure, facility or installation the construction of which commenced after March 5, 1984.

(Source: Amended at 14 Ill. Reg. 7620, effective May 8, 1990)

DEPARTMENT OF PUBLIC AID

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NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: MEDICAL ASSISTANCE PROGRAMS

2) Code (citation): 89 Ill. Adm. Code 120

3) Section Numbers: Adopted Action:

120.70 Amendment
 120.72 Amendment
 120.74 Amendment
 120.76 Amendment

4) Statutory Authority: Sections 5-2 and 5-5 et seq. of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 5-2 and 5-5 et seq.)

5) Effective Date of Amendments: May 10, 1990

6) Do these Adopted Amendments contain automatic repeal date:
 Yes ☐ No ☒

7) Do these Adopted Amendments contain incorporations by reference? No

8) Late Filed in Agency's Principal Office: May 10, 1990

9) Notices of Proposal Published in Illinois Register:
 January 12, 1990 (14 Ill. Reg. 558)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: The date "1989" is deleted from 120.74, line 2.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Adopted Amendments replace an Emergency Amendment currently in effect? Yes

14) Are there any Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
120.11	Amendment	April 20, 1990 (14 Ill. Reg. 5724)

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Section Numbers Proposed Action Illinois Register Citation

120.3) Amendment April 20, 1990
(14 Ill. Reg. 5724)

120.60 Amendment April 20, 1990
(14 Ill. Reg. 5724)

120.64 Amendment April 20, 1990
(14 Ill. Reg. 5724)

120.208 Amendment February 23, 1990
(14 Ill. Reg. 2831)

120.235 Amendment March 16, 1990
(14 Ill. Reg. 4081)

120.28) Amendment March 16, 1990
(14 Ill. Reg. 4081)

120.308 Amendment February 23, 1990
(14 Ill. Reg. 2831)

120.370 Amendment April 20, 1990
(14 Ill. Reg. 5954)

120.300 Amendment April 20, 1990
(14 Ill. Reg. 5724)

120.301 Amendment April 20, 1990
(14 Ill. Reg. 5724)

15) Summary and Purpose of Adopted Amendments: This rulemaking sets out the federally mandated timetable of percentage increases in the Qualified Medicare Beneficiary (QMB) Income Standard. These percentages are tied to the Federal Poverty Income Guidelines.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Daniel Leikvold, Staff Attorney
 Office of the General Counsel

Address: Illinois Department of Public Aid
 Jesse P. Harris Building II
 100 S. Grand Avenue East, 3rd Floor
 Springfield, Illinois 62762

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Telephone: (217) 782-1233

The full text of the Adopted Amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
120.1

Incorporation By Reference

SUBPART B: ASSISTANCE STANDARDS

Section
120.10
120.11

Eligibility For Medical Assistance
Eligibility For Medical Assistance For Pregnant
Women and Children Under Age Six Who Do Not Qualify
As Mandatory Categorically Needy
MANG(AAD) Income Standard
MANG(C) Income Standard
MANG(P) Income Standard

120.20
120.30
120.31

Exceptions To Use Of MANG Income Standard
AMI Income Standard

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section
120.60

All Cases Other Than Intermediate Care, Skilled
Nursing Care, DMHDD, DMHDD Approved Community Based
Settings and Pregnant Women and Children Under Age
Six Who Do Not Qualify As Mandatory Categorically
Needy

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120.62

Cases in Intermediate Care, Skilled Nursing Care and
DMHDD - MANG(AABD)
Department of Mental Health and Developmental
Disabilities (DMHDD) Approved Home and Community
Based Residential Settings Under 89 Ill. Adm. Code
140.643

120.63

Department of Mental Health and Developmental
Disabilities (DMHDD) Approved Home and Community
Based Residential Settings
Pregnant Women and Children Under Age Six Years Who
Do Not Qualify As Mandatory Categorically Needy

120.64

SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE

DEPARTMENT OF PUBLIC AID

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Supplementary Medical Insurance Benefits, Buy-In Program
Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
Qualified Medicare Beneficiary (QMB) Income Standard
Hospital Insurance Benefits (HIR)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

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Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

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Migrant Medical Program
Income Standards

SUBPART G: AID TO THE MEDICALLY INDIGENT

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120.208
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Client Cooperation
Citizenship
Residence
Age
Relationship
Living Arrangement
Supplemental Payments
Institutional Status
Foster Care Program
Social Security Numbers
Unearned Income
Exempt Unearned Income
Education Benefits
Unearned Income In-Kind
Earmarked Income
Lump Sum Payments and Income Tax Refunds
Protected Income
Earned Income
Budgeting Earned Income
Exempt Earned Income
Recognized Employment Expenses
Income From Work/Study/Training Program
Earned Income From Self-Employment
Earned Income From Roomer and Boarder
Earned Income In-Kind

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Section
120.276

Payments from the Illinois Department of Children and Family Services
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Exempt Assets

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Asset Disregards

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Deferral of Consideration of Assets

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Spend-down of Assets (AMI)

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Property Transfers

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Persons Who May Be Included in the Assistance Unit Payment Levels for AMI

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SUBPART H: MEDICAL ASSISTANCE - NO GRANT

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Client Cooperation
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Citizenship
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Age
Blind
Disabled
Relationship
Living Arrangements
Supplemental Payments
Institutional Status
Assignment of Rights to Medical Support and Collection of Payment
Cooperation in Establishing Paternity and Obtaining Medical Support
Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
Suspension of Paternity Establishing Medical Support
Medical Support Upon Finding Good Cause
Foster Care Program
Social Security Numbers
Unearned Income
Budgeting Unearned Income
Exempt Unearned Income
Education Benefits
Incentive Allowance
Unearned Income In-Kind
Court Ordered Child Support Payments of Parent/Step-Parent
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Section	Lump Sum Payments and Income Tax Refunds
120.350	Protected Income
120.355	Earned Income
120.360	Budgeting Earned Income
120.361	Exempt Earned Income
120.362	Earned Income Exemption
120.364	Exclusion From Earned Income Exemption
120.366	Recognized Employment Expenses
120.370	Income From Work/Study/Training Programs
120.371	Earned Income From Self-Employment
120.372	Earned Income From Roomer and Boarder
120.373	Earned Income In Kind
120.375	Payments from the Illinois Department of Children and Family Services
120.376	Assessment of Assets
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120.380	Exempt Assets
120.381	Asset Disregard
120.382	Deferral of Consideration of Assets
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120.384	Property Transfers for Applications Filed Prior to October 1, 1980
120.385	Property Transfers Effective for Applications Filed on or After October 1, 1989
120.386	Persons Who May Be Included In the Assistance Unit
120.390	Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Under Age Six
120.391	Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.392	Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project.
120.393	Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project.
120.395	Payment Levels for MANG
120.399	Redetermination of Eligibility

AUTHORITY: Implementing Articles III, IV, V, VI and VII and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13).

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978;

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peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 600, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5727, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041 effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982, amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20,

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1982; emergency amendment at 6 Ill. Reg. 7290, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified July 1, 1983; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987;

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amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

SUBPART D: MEDICARE PREMIUMS
Section 120.70 Supplementary Medical Insurance Benefits (SHIR) Buy-In Program

- a) The Department shall pay the premium for Supplementary Medical Insurance benefits (SMIB) (part B of Medicare) for specified clients in accordance with the buy-in agreement with the Social Security Administration (SSA) and the Medicare Catastrophic Coverage Act of 1988 (p.t. 100-360). Individuals may previously have

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Section 120.70

Supplementary Medical Insurance Benefits (SMIB) Buy-In Program (Cont'd)

enrolled in SMIB themselves or may be automatically enrolled in SMIB by the Department.

b) Eligible Individuals

1) The Department shall pay the SMIB premium for the following individuals:

A) individuals who receive financial assistance (including zero grant) under the AABD or AFDC program;

B) individuals who, except for the Social Security benefit increase of 1972 (42 CFR 235.134), would still be eligible to receive cash assistance as an aged, blind or disabled person (89 Ill. Adm. Code 113) and who are eligible for both SMIB and the Department's Medicaid program (89 Ill. Adm. Code 120);

C) individuals with Supplemental Security Income (SSI) income who receive full Medicaid benefits under the AABD program; and

D) Qualified Medicare Beneficiaries (QMBs) (see Section 120.72).

2) Individuals who qualify under Subsections (b)(1)(A) thru (b)(1)(C) above may include individuals not eligible for Part A of Medicare (see title XVII of the Social Security Act), because of insufficient quarters of coverage. Individuals who qualify under Subsections (b)(1)(A) thru (b)(1)(B) may include persons who would not be eligible for individual SMIB enrollment because of failure to pay premiums or previous failure to enroll during prescribed periods.

c) Beginning Eligibility

1) Individuals who qualify under (b)(1)(A), (b)(1)(B) or (b)(1)(C) shall be added to the SMIB Buy-In Program for the first month in which they

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Section 120.70

Supplementary Medical Insurance Benefits (SMIB) Buy-In Program (Cont'd.)

are eligible for both SMIB enrollment and medical assistance. Recipients shall remain in the Buy-In Program while in \$0 grant status and for any month in which they qualify under (b)(1)(A) thru (b)(1)(D) above.

2) Individuals who qualify under Subsection (b)(1)(D) shall be added to the SMIB Buy-In Program for the first month following the month in which they are determined eligible for QMB status. Recipients shall remain in the SMIB Buy-In Program for any month in which they qualify under Subsection (b)(1)(A) thru (b)(1)(D) above.

(Source: Amended at 14 Ill. Reg. 7637, effective May 10, 1990)

Section 120.72

Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)

a) Eligibility for Medicare cost sharing exists for Qualified Medicare Beneficiaries (QMBs). A QMB is an individual who:

- 1) is a beneficiary of Medicare Part A (i.e., Hospital Insurance);
 - 2) meets the general non-financial factors of eligibility for the Medicaid Program (see Sections 120.310, 120.311, 120.319 and 120.325);
 - 3) has countable monthly income which does not exceed the QMB income standard (see Section 120.74); and
 - 4) has countable assets which do not exceed the QMB asset disregard (see Section 120.382(d)).
- b) QMBs may be eligible for the full range of Medicaid services (see 89 Ill. Adm. Code 140) only if they meet all eligibility requirements for Medicaid (see 89 Ill. Adm. Code 120).

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NOTICE OF ADOPTED AMENDMENTS

Section 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB) (Cont'd.)

- c) Eligibility for Medicare cost sharing is effective the first day of the month following the QMB eligibility determination.
- d) QMBs are eligible for Medicaid payment of Medicare cost sharing expenses (i.e., Part A and Part B premiums, deductibles and coinsurance (See Title XVIII of the Social Security Act.)) in accordance with Sections 120.70, 120.76 and 89 Ill. Adm. Code 140.21.

- e) Eligibility for QMB status will be redetermined at least every twelve (12) months.

(Source: Amended at 14 Ill. Reg. 7637, effective May 10, 1990)

Section 120.74 Qualified Medicare Beneficiary (QMB) Income Standard

- a) The QMB income standard below is equal to 80% a percentage of the 1989 then current Federal Poverty Level Income Guidelines (54-FR-78977-February-16-1989 as published annually in the Federal Register) for the size of the household. If the household's countable monthly income (see 89 Ill. Adm. Code 112, 113, 120) exceeds the QMB income standard, eligibility for QMB status does not exist. The timetable for the applicable percentage is as follows:

Number in Family	Countable Monthly Income	Number in Family	Countable Monthly Income
2	535	6	1079
3	671	7	1215
4	807	8	1351

January - December 1989	- 80%
January - December 1990	- 80%
January - December 1991	- 90%
January - December 1992	- 95%
January 1993 on	- 100%

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Section 120.74 Qualified Medicare Beneficiary (QMB) Income Standard (Cont'd.)

- b) When the number in the household unit exceeds the number provided above, add \$122 for each additional person:

(Source: Amended at 14 Ill. Reg. 7637, effective May 10, 1990)

Section 120.76 Hospital Insurance Benefits (HIA)

- a) The Department shall pay the Hospital Insurance Benefit (HIB) (Part A of Medicare) premium for Qualified Medicare Beneficiaries (QMBs) in accordance with the Medicare Catastrophe Coverage Act of 1988 (see Section 120.72). Payments will be made in behalf of QMBs who have individually enrolled for HIB with the Social Security Administration and who are charged a HIB premium.

- b) The Department will pay the HIB premium beginning the month following the month of the QMB eligibility determination. Payment will continue as long as the individual retains QMB status.

(Source: Amended at 14 Ill. Reg. 7637, effective May 10, 1990)

DEPARTMENT OF PUBLIC AID
NOTICE OF RECODIFICATION

- 1) The Heading of the Part: Developmental Disabilities Service
- 2) Code Citation: 89 Ill. Adm. Code 144
- 3) Date of Administrative Code Division Review: May 4, 1990
- 4) Heading and Section Number of the Part Being Recodified:

<u>Section Number</u>	<u>Heading</u>
146.225	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled

- 5) Outline of the Section Number and Heading of the Part as Recodified:

<u>Section Number</u>	<u>Heading</u>
144.275	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled

- 6) Conversion Table of Present and Recodified Parts:

<u>Present Part</u> (<u>Section Number</u>)	<u>Recodified Part</u> (<u>Section Number</u>)
146.225	144.275

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENT

- 1) The Heading of the Part: Pay Plan
- 2) The Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number:
310. Appendix A, Table O
Peremptory Action:
Amended
- 4) Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking:

Section 2 of the Illinois Administration Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1002)

- 5) Statutory Authority: Ill. Rev. Stat. 1987, ch. 127, par. 1607

- 6) Effective Date: May 7, 1990

- 7) A Complete Description of the Subjects and Issues Involved:

In Section 310. Table O, RC-028 (Paraprofessional Human Services Employees, AFSCME), the classes of Environmental Equipment Operator I and II are being added with the monthly salary ranges of \$1,643.00 - 2,102.00 and \$1,797.00 - 2,328.00, respectively. The above classes are effective for April 16, 1990.

- 8) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
If "yes", please specify date:

- 9) Date Filed in Agency's Principle Office:

- 10) Is this Rule in compliance with Section 5.03 of the Illinois Administrative Procedures Act? Yes

- 11) Are there any proposed amendments pending to this part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310. App. A, Table G	Amended	14 Ill. Reg. 427 (January 12, 1990)
310. App. A, Table K	Amended	14 Ill. Reg. 427 (January 12, 1990)
310. App. A, Table T	Amended	14 Ill. Reg. 427 (January 12, 1990)
310.110	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.130	Amended	14 Ill. Reg. 5269 (April 13, 1990)

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310.290	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.300	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.450	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.456	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.530	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310.540	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. App. A, Table D	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. App. A, Table E	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. App. A, Table F	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. Appendix B	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. Appendix C	Amended	14 Ill. Reg. 5269 (April 13, 1990)
310. Appendix D	Amended	14 Ill. Reg. 5269 (April 13, 1990)

12) Statement of Statewide Objectives:

These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

13) The name, address and telephone number of the person to whom information and questions concerning this peremptory rule shall be directed to:

Within 45 days, comments should be written and addressed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

The full text of the Adopted Amendment is as follows:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes, Effective July 1, 1989
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstitution of Within Grade Salary Increases
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)
310.150	

SUBPART B: SCHEDULE OF RATES

Section	Introduction
310.205	Prevailing Rate
310.210	Negotiated Rate
310.220	Part-Time Daily or Hourly Special Services Rate
310.230	Hourly Rate
310.240	Member, Patient and Inmate Rate
310.250	Trainee Rate
310.260	Legislated and Contracted Rate
310.270	Designated Rate
310.280	Out-of-State or Foreign Service Rate
310.290	Education Rate
310.300	Physician Specialist Rate
310.310	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.320	Excluded Classes Rate (Repealed)
310.330	

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

SUBPART C: MERIT COMPENSATION SYSTEM

Section	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.450	Intermittent Merit Increase
310.455	Merit Zone
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1990
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C	RC-069 (Firefighters, AFSQME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, ISEA)
TABLE H	RC-006 (Corrections Employees, AFSQME)
TABLE I	RC-009 (Institutional Employees, AFSQME)
TABLE J	RC-014 (Clerical Employees, AFSQME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	VR-004 (Illinois State Treasurer's Office Employees, Teamsters and IFT)
TABLE M	RC-027 (Educators, AFSQME) (Repealed)
TABLE N	RC-027 (Physician Rates, AFSQME) (Repealed)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSQME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, ISEA)
TABLE Q	RC-033 (Heat Inspectors, ISEA)
TABLE R	RC-042 (Residual Maintenance Workers, AFSQME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSQME)
TABLE X	RC-063 (Professional Employees, AFSQME)
TABLE Y	RC-063 (Educators, AFSQME)
TABLE Z	RC-063 (Physicians, AFSQME)
APPENDIX B	Schedule of Salary Grades - Monthly and Annual Rates of Pay for Fiscal Year 1990
APPENDIX C	Physician Administrator Rates and Medical Facilities Administrator Rates for Fiscal Year 1990
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1990
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)

AUTHORITY: Implementing and authorized by Section 8a(2) of the Personnel Code (Ill. Rev. Stat., ch. 127, par. 63b108a(2)).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985; for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective September 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective June 30, 1989, for a maximum of 150 days; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19921, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990.

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Section 310.TABLE 0 RC-028 (Paraprofessional Human Services Employees, AFSOME)

Effective: July 1, 1989

	1	2	3	4	5	6	7
APPAREL/DRY GOODS SPECIALIST III	1547	1615	1677	1741	1803	1867	1971
ASSISTANT REIMBURSEMENT OFFICER	1347	1394	1442	1492	1541	1591	1677
AUDIOMETRIC & VISIONETRIC TECH.	1261	1303	1346	1389	1431	1473	1546
CHILD DEVELOPMENT AIDE I	1219	1261	1301	1339	1383	1422	1495
CHILD DEVELOPMENT AIDE II	1347	1394	1442	1492	1541	1591	1677
CHILD DEVELOPMENT AIDE III	1447	1501	1560	1615	1676	1734	1823
COMMUNITY WORKER I	1437	1490	1544	1602	1657	1713	1806
COMMUNITY WORKER II	1490	1545	1608	1665	1731	1787	1882
COMPLIANCE OFFICER	1714	1787	1863	1938	2012	2089	2208
CONSERVATION RESOURCE TECH. I	1503	1567	1625	1687	1746	1810	1909
CONSERVATION RESOURCE TECH. II	1714	1787	1863	1938	2012	2089	2208
CONSTRUCTION SUPERVISOR I	1714	1787	1863	1938	2012	2089	2208
CONSTRUCTION SUPERVISOR II	1971	2063	2158	2247	2341	2434	2579
COUNSELOR-MODEL EMPLOYER	1503	1567	1625	1687	1746	1810	1909
CRIME SCENE TECHNICIAN	2180	2286	2392	2500	2604	2707	2868
CRIME STUDIES ASSOCIATE	1503	1567	1625	1687	1746	1810	1909
DATA PROCESSING ADMINISTRATIVE SPECIALIST	1797	1876	1954	2041	2120	2201	2328
DATA PROCESSING SPECIALIST	1643	1712	1778	1851	1919	1990	2102
DATA PROCESSING TECHNICIAN	1447	1501	1560	1615	1676	1734	1823
DATA PROCESSING TECHNICIAN TRN.	1303	1347	1391	1437	1483	1531	1610
DENTAL ASSISTANT	1303	1347	1391	1437	1483	1531	1610
DENTAL HYGIENIST	1503	1567	1625	1687	1746	1810	1909
ELECTROENCEPHALOGRAPH SUPERVISOR	1503	1567	1625	1687	1746	1810	1909
ELECTROENCEPHALOGRAPH TECHNICIAN	1394	1447	1499	1555	1606	1660	1748
EMPLOYMENT SECURITY MANPOWER TECHNICIAN I	1303	1347	1391	1437	1483	1531	1610
EMPLOYMENT SECURITY MANPOWER TECHNICIAN II	1394	1447	1499	1555	1606	1660	1748
ENVIRONMENTAL PROTECTION TECH. I	1394	1447	1499	1555	1606	1660	1748
ENVIRONMENTAL PROTECTION TECH. II	1503	1567	1625	1687	1746	1810	1909
HEARING & SPEECH TECHNICIAN I	1303	1347	1391	1437	1483	1531	1610
HEARING & SPEECH TECHNICIAN II	1447	1501	1560	1615	1676	1734	1823
HISTORIC SITE INTERPRETER	1447	1501	1560	1615	1676	1734	1823
HISTORIC SITE LEAD I	1714	1787	1863	1938	2012	2089	2208
HISTORIC SITE LEAD II	1797	1876	1954	2041	2120	2201	2328
HOMEWORKER I	1303	1347	1391	1437	1483	1531	1610
HOMEWORKER II	1447	1501	1560	1615	1676	1734	1823
HOUSEKEEPER I	1185	1219	1258	1296	1335	1370	1439
HOUSEKEEPER II	1219	1258	1299	1337	1374	1417	1490
HUNTER SAFETY INSTRUCTOR I	1347	1394	1442	1492	1541	1591	1677
HUNTER SAFETY INSTRUCTOR II	1394	1447	1499	1555	1606	1660	1748

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INHALATION THERAPIST	1394	1447	1499	1555	1606	1660	1748
INTERMITTENT UNEMPLOYMENT INSURANCE TECHNICIAN	8.02	8.29	8.56	8.84	9.13	9.42	9.91
LABORATORY HELPER	1219	1258	1299	1337	1374	1417	1490
LABORATORY TECHNICIAN I	1339	1389	1433	1482	1529	1579	1659
LABORATORY TECHNICIAN II	1437	1490	1544	1602	1657	1713	1806
LABORATORY TECHNICIAN III	1547	1615	1677	1741	1803	1867	1971
LEGAL RESEARCH ASSISTANT*	1714	1787	1863	1938	2012	2089	2208
LICENSED PRACTICAL NURSE I	1451	1507	1565	1625	1688	1753	1824
LICENSED PRACTICAL NURSE II	1522	1581	1643	1706	1772	1840	1914
MEDICAL RECORDS ASSISTANT	1447	1501	1560	1615	1676	1734	1823
MEDICAL RECORDS TECHNICIAN	1568	1634	1695	1764	1829	1892	1997
OFFICE ADMINISTRATIVE SPECIALIST	1643	1712	1778	1851	1919	1990	2102
OFFICE SPECIALIST	1568	1634	1695	1764	1829	1892	1997
PHARMACIST APPRENTICE	1303	1347	1391	1437	1483	1531	1610
PUBLIC AID ELIGIBILITY ASSISTANT	1394	1447	1499	1555	1606	1660	1748
RADIOLOGIC TECHNOLOGIST	1568	1634	1695	1764	1829	1892	1997
RADIOLOGIC TECHNOLOGIST PROG. COORDINATOR	1643	1712	1778	1851	1919	1990	2102
RANGER	1714	1787	1863	1938	2012	2089	2208
REHAB. COUNSELOR AIDE I	1447	1501	1560	1615	1676	1734	1823
REHAB. COUNSELOR AIDE II	1568	1634	1695	1764	1829	1892	1997
SENIOR RANGER	1797	1876	1954	2041	2120	2201	2328
SITE TECHNICIAN I	1503	1567	1625	1687	1746	1810	1909
SITE TECHNICIAN II	1643	1712	1778	1851	1919	1990	2102
SOCIAL SERVICE COMMUNITY PLANNER	1568	1634	1695	1764	1829	1892	1997
STATISTICAL RESEARCH TECHNICIAN	1568	1634	1695	1764	1829	1892	1997
UNEMP. INSURANCE CLAIMS TECH. I	1303	1347	1391	1437	1483	1531	1610
UNEMP. INSURANCE CLAIMS TECH. II	1394	1447	1499	1555	1606	1660	1748
UNEMP. INSURANCE CLAIMS TECH. III	1447	1501	1560	1615	1676	1734	1823
VETERANS SERVICE OFFICER	1643	1712	1778	1851	1919	1990	2102
VOCATIONAL INSTRUCTOR	1643	1712	1778	1851	1919	1990	2102

*DEPT. OF EMPLOYMENT SECURITY DESIGNATED POSITIONS ONLY

Effective August 16, 1989

1	2	3	4	5	6	7
1394	1447	1499	1555	1606	1660	1748
1303	1347	1391	1437	1483	1531	1610

Effective April 16, 1990

1	2	3	4	5	6	7
1643	1712	1778	1851	1919	1990	2102
1797	1876	1954	2041	2120	2201	2328

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
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Effective: July 1, 1990

APPAREL/DRY GOODS SPECIALIST III	1	2	3	4	5	6	7
ASSISTANT REIMBURSEMENT OFFICER	1617	1688	1752	1819	1884	1951	2060
AUDIO-METRIC & VISION-METRIC TECH.	1408	1457	1507	1559	1610	1663	1752
CHILD DEVELOPMENT AIDE I	1274	1318	1360	1399	1445	1486	1562
CHILD DEVELOPMENT AIDE II	1408	1457	1507	1559	1610	1663	1752
CHILD DEVELOPMENT AIDE III	1512	1569	1630	1688	1751	1812	1905
COMMUNITY WORKER I	1502	1557	1613	1674	1732	1790	1887
COMPLIANCE OFFICER	1557	1615	1680	1740	1809	1867	1967
CONSERVATION RESOURCE TECH. I	1791	1867	1947	2025	2103	2183	2307
CONSERVATION RESOURCE TECH. II	1571	1638	1698	1763	1825	1891	1995
CONSTRUCTION SUPERVISOR I	1791	1867	1947	2025	2103	2183	2307
CONSTRUCTION SUPERVISOR II	1791	1867	1947	2025	2103	2183	2307
COUNSELOR-MODEL EMPLOYER	2060	2156	2255	2348	2446	2544	2695
CRIME SCENE TECHNICIAN	1571	1638	1698	1763	1825	1891	1995
CRIME STUDIES ASSOCIATE	2278	2389	2500	2613	2721	2829	2997
DATA PROCESSING ADMINISTRATIVE SPECIALIST	1571	1638	1698	1763	1825	1891	1995
DATA PROCESSING SPECIALIST	1878	1960	2042	2133	2215	2300	2433
DATA PROCESSING TECHNICIAN	1717	1789	1858	1934	2005	2080	2197
DATA PROCESSING TECHNICIAN TRN.	1512	1569	1630	1688	1751	1812	1905
DENTAL ASSISTANT	1362	1408	1454	1502	1550	1600	1682
DENTAL HYGIENIST	1362	1408	1454	1502	1550	1600	1682
ELECTROENCEPHALOGRAPH SUPERVISOR	1571	1638	1698	1763	1825	1891	1995
ELECTROENCEPHALOGRAPH TECHNICIAN	1571	1638	1698	1763	1825	1891	1995
EMPLOYMENT SECURITY MANPOWER TECHNICIAN I	1457	1512	1566	1625	1678	1735	1827
EMPLOYMENT SECURITY MANPOWER TECHNICIAN II	1362	1408	1454	1502	1550	1600	1682
ENVIRONMENTAL EQUIPMENT OPR. I	1457	1512	1566	1625	1678	1735	1827
ENVIRONMENTAL EQUIPMENT OPR. II	1717	1789	1858	1934	2005	2080	2197
ENVIRONMENTAL PROTECTION TECH. I	1878	1960	2042	2133	2215	2300	2433
ENVIRONMENTAL PROTECTION TECH. II	1457	1512	1566	1625	1678	1735	1827
HEARING & SPEECH TECHNICIAN I	1571	1638	1698	1763	1825	1891	1995
HEARING & SPEECH TECHNICIAN II	1362	1408	1454	1502	1550	1600	1682
HISTORIC SITE INTERPRETER	1512	1569	1630	1688	1751	1812	1905
HISTORIC SITE LEAD I	1512	1569	1630	1688	1751	1812	1905
HISTORIC SITE LEAD II	1791	1867	1947	2025	2103	2183	2307
HOMEMAKER I	1878	1960	2042	2133	2215	2300	2433
HOMEMAKER II	1362	1408	1454	1502	1550	1600	1682
HOUSEKEEPER I	1512	1569	1630	1688	1751	1812	1905
HOUSEKEEPER II	1238	1274	1315	1357	1397	1436	1504
HUNTER SAFETY INSTRUCTOR I	1274	1315	1357	1397	1436	1481	1557
HUNTER SAFETY INSTRUCTOR II	1408	1457	1507	1559	1610	1663	1752
HUNTER SAFETY INSTRUCTOR III	1457	1512	1566	1625	1678	1735	1827

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INITIATION THERAPIST	1457	1512	1566	1625	1678	1735	1827
INTERMITTENT UNEMPLOYMENT	8.38	8.66	8.95	9.24	9.54	9.85	10.35
INSURANCE TECHNICIAN	1274	1315	1357	1397	1436	1481	1557
LABORATORY HELPER	1399	1452	1497	1549	1598	1650	1734
LABORATORY TECHNICIAN I	1502	1557	1613	1674	1732	1790	1887
LABORATORY TECHNICIAN II	1617	1688	1752	1819	1884	1951	2060
LABORATORY TECHNICIAN III	1791	1867	1947	2025	2103	2183	2307
LEGAL RESEARCH ASSISTANT*	1516	1575	1635	1698	1764	1832	1906
LICENSED PRACTICAL NURSE I	1590	1652	1717	1783	1852	1923	2000
LICENSED PRACTICAL NURSE II	1512	1569	1630	1688	1751	1812	1905
MEDICAL RECORDS ASSISTANT	1639	1708	1771	1843	1911	1977	2087
MEDICAL RECORDS TECHNICIAN	1717	1789	1858	1934	2005	2080	2197
OFFICE ADMINISTRATIVE SPECIALIST	1639	1708	1771	1843	1911	1977	2087
OFFICE SPECIALIST	1457	1512	1566	1625	1678	1735	1827
PHARMACIST LEAD TECHNICIAN	1362	1408	1454	1502	1550	1600	1682
PHARMACIST TECHNICIAN	1457	1512	1566	1625	1678	1735	1827
PUBLIC AID ELIGIBILITY ASSISTANT	1639	1708	1771	1843	1911	1977	2087
RADIOLOGIC TECHNOLOGIST	1717	1789	1858	1934	2005	2080	2197
RADIOLOGIC TECHNOLOGIST PROG. COORDINATOR	1791	1867	1947	2025	2103	2183	2307
RANGER	1512	1569	1630	1688	1751	1812	1905
REHAB. COUNSELOR AIDE I	1639	1708	1771	1843	1911	1977	2087
REHAB. COUNSELOR AIDE II	1878	1960	2042	2133	2215	2300	2433
SENIOR RANGER	1571	1638	1698	1763	1825	1891	1995
SITE TECHNICIAN I	1717	1789	1858	1934	2005	2080	2197
SITE TECHNICIAN II	1639	1708	1771	1843	1911	1977	2087
SOCIAL SERVICE COMMUNITY PLANNER	1639	1708	1771	1843	1911	1977	2087
STATISTICAL RESEARCH TECHNICIAN	1362	1408	1454	1502	1550	1600	1682
UNEMP. INSURANCE CLAIMS TECH. I	1457	1512	1566	1625	1678	1735	1827
UNEMP. INSURANCE CLAIMS TECH. II	1512	1569	1630	1688	1751	1812	1905
UNEMP. INSURANCE CLAIMS TECH. III	1717	1789	1858	1934	2005	2080	2197
VETERANS SERVICE OFFICER	1717	1789	1858	1934	2005	2080	2197
VOCATIONAL INSTRUCTOR	1717	1789	1858	1934	2005	2080	2197

*DEPT. OF EMPLOYMENT SECURITY DESIGNATED POSITIONS ONLY

(Source: Peremptory Amendment at 14 Ill. Reg. 7652, effective May 7, 1990)

STATE BOARD OF EDUCATION

NOTICE OF REFUSAL AND MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) The Heading of the Part: Private Business and Vocational Schools
- 2) Code Citation: 23 Ill. Adm. Code 451
- 3) Section Numbers: Action:
451.30 Modified
451.220 Refusal to Modify
- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
June 16, 1989, 13 Ill. Reg. 9133
- 5) Date JCAR Statement of Objection Published in the Register:
March 23, 1990, 14 Ill. Reg. 4741
- 6) Summary of Action Taken by the Agency:

Objection 1

The Joint Committee objected to Section 451.30(c) of the rules of the State Board of Education because contrary to Section 5.1 of the Private Business and Vocational Schools Act, the rule fails to require out-of-state schools to have first received a Certificate of Approval.

Response

The provisions of 451.30(a)-(c) are unique to out-of-state schools and are in addition to the requirement of securing a certificate of approval. Out-of-state schools also are subject to all the requirements of Section 451.20 (Application for Certificate of Approval).

In order to clarify this point, the State Board will add the following introductory language to Section 451.30:

"In addition to the requirements set forth in Section 451.20, out-of-state schools shall also comply with the following."

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PUBLIC INFORMATION

- 1) Heading of the Part: Auxiliary Aids
- 2) Code Citation: 89 Ill. Adm. Code 540
- 3) Illinois Register citation to Adopted Amendments:

14 Ill. Reg. 5808 ; April 20, 1990
(issue date)

In the main source note, the following action was omitted:
12 Ill. Reg. 14300, effective August 29, 1988

The entire source note will now read as follows:

Adopted at 8 Ill. Reg. 4516, effective March 30, 1984; amended at 12 Ill. Reg. 14300, effective August 29, 1988; amended at 14 Ill. Reg. 5808, effective April 5, 1990.

STATE BOARD OF EDUCATION

NOTICE OF REFUSAL AND MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

Objection 2

The Joint Committee objected to Section 451.220(b) because contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule fails to set forth the standards which are used by the Superintendent in determining whether a school is financially sound or has financial difficulties deemed serious enough to consider denying or revoking approval.

Response

The State Superintendent determines whether a school is "financially sound or...has financial difficulties deemed serious enough to consider denial or revocation of approval" by using the standard set forth in Section 16(9) of the Act. Section 16(9) authorizes the Superintendent to deny or revoke a certificate of approval for "failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered or to retain a sufficient and qualified instructional and administrative staff." This standard is "stated as precisely and clearly as practicable" within the meaning of Section 4.02 of the IAPA. The State Board therefore declines to modify Section 451.220(b).

PROCLAMATION

90-211

COUP DE HOOP DAY

Whereas, since basketball began 99 years ago, it has served as a source of recreation, and for some, a career; and

Whereas, Coup de Hoop is a national 3-on-3 basketball tournament created to spotlight playground basketball players of all ages and abilities and also to promote drug-free competition and safe playgrounds; and

Whereas, a portion of the tournament's entry fees will help fund anti-drug programs;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 19, 1990, as COUP DE HOOP DAY in Illinois in recognition of the tournament's emphasis on drug-free competition and dedication to anti-drug programs.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-212

FOSTER PARENT MONTH

Whereas, to foster means to nourish, cherish, and encourage and this is what foster parents do for emotionally needy children whose natural parents can no longer provide them with care; and

Whereas, over 13,000 children in Illinois, particularly black and Hispanic ones, need appropriate foster care; and

Whereas, foster parents meet a very special need in our society by ensuring that these children receive attention, respect, understanding, and compassion, as well as an education and health care services; and

Whereas, thousands of adults in Illinois have volunteered to be substitute parents through the Foster Parent Program, and their contributions to the welfare of the children in our state are incalculable and irreplaceable;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as FOSTER PARENT MONTH in Illinois.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-213

MARITIME DAY

Whereas, National Maritime Day has been observed since 1933, marking the date of the first successful Atlantic crossing by a ship with steam propulsion; and

Whereas, this day is set aside in honor of the American Merchant Marine whose men and women served in peace and war in contributing to the waterborne commerce of our nation; and

Whereas, these ocean-going merchant ships greatly benefit the economic standing of Illinois in carrying their cargoes through the Great Lakes and its inland waterways; and

Whereas, the Propeller Club of the United States, having 66 member clubs throughout the country, annually takes time out to celebrate this day with a variety of functions;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 22, 1990, as MARITIME DAY in Illinois, recognizing the valor, necessity, and distinction with which merchant seamen have served our nation.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-214

METRIC WEEK

Whereas, the Metric Conversion Act of 1975 established a national policy of coordinating and planning increased voluntary usage of the entire metric system in the United States; and

Whereas, the United States Metric Association, a nonprofit organization, is dedicated to helping the people, industry, and government of America adopt the international SI metric system as their primary means of measurement; and

Whereas, only two countries, the United States and Burma, currently do not use the metric system; and

Whereas, the metric system is less complex than America's current method, and its implementation would allow U. S. industries to more ably compete in the international market; and

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 7-13, 1990, as METRIC WEEK in Illinois, urging all citizens to use the metric system whenever possible.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-215

MORGAN PARK CREDIT UNION DAY

Whereas, on September 17, 1940, 20 residents of the Morgan Park Community organized the Morgan Park Community Consumers Cooperative; and

Whereas, the credit union's name was changed to Morgan Park Co-op Credit Union on April 24, 1949, and in 1989 the name was changed again to Morgan Park Credit Union; and

Whereas, on March 24, 1990, the Morgan Park Credit Union celebrated 50 years of service to the community with a party at the Homewood Manor in Homewood, Illinois;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 24, 1990, as MORGAN PARK CREDIT UNION DAY in Illinois in honor of the credit union's 50th anniversary and

wish the credit union continued success in the future.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-216

MULTIPLE SCLEROSIS ASSOCIATION OF AMERICA MONTH

Whereas, Multiple Sclerosis (MS) is a debilitating disease that affects a person's central nervous system without warning; and

Whereas, because a cure has not been found for MS, MS victims must endure suffering for the rest of their lives. Many victims are permanently or intermittently unable to walk, see, or function as vital and vibrant individuals; and

Whereas, the Multiple Sclerosis Association of America (MSA) is a nonprofit organization committed to providing therapeutic equipment, social activities, and many other vital services to the disabled community; and

Whereas, the Multiple Sclerosis Association (MSA) has successfully completed more than 16 years of dedicated service to the disabled community in general and multiple sclerosis victims in particular; and

Whereas, the MSA has established role model housing to enable disabled persons to live more independently;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as MULTIPLE SCLEROSIS ASSOCIATION OF AMERICA MONTH in Illinois and commend the MSA on its commitment to improving the quality of life for MS victims.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-217

NURSE RECRUITMENT DAY

Whereas, today's nurses are educated and trained professionals working in technical, sophisticated environments while providing compassionate and concerned care for patients and their families; and

Whereas, there is currently a severe nursing shortage in the United States and in Illinois, where 9.5 percent of budgeted nursing positions cannot be filled; and

Whereas, hospitals, clinics, home health agencies, hospices, the Armed Forces, and other health care providers face a future with diminished nursing care because of this shortage; and

Whereas, on April 30, nurses from hospitals throughout the state will visit the 754 high schools in Illinois to talk about nursing, demonstrate various areas of care, and provide information on a variety of subjects in hopes of generating more interest in the nursing field;

Therefore, I, James R. Thompson, Governor of the State of

Illinois, proclaim April 30, 1990, as NURSE RECRUITMENT DAY in Illinois and urge youths to realize the value of nursing and take steps to prevent nursing shortages which can seriously hamper our state's health care services.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-218

REHABILITATION FACILITIES WEEK

Whereas, the loss or impairment of a limb, an organ or a faculty does not mean the end of a person's productive life; and

Whereas, rehabilitation facilities are available to help Illinois citizens adapt to new methods of achieving productive and fulfilling lives; and

Whereas, physical therapy, counseling, learning the use of aids, and other services help disabled individuals achieve self-sufficiency once again; and

Whereas, dedicated, professional staffs provide individualized, sometimes painstaking care that makes such achievements possible;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 16-22, 1990, as REHABILITATION FACILITIES WEEK in Illinois and commend the facilities' accomplishments which benefit not only their clients, but all citizens.

Issued by the Governor April 30, 1990.

Filed with the Secretary of State May 7, 1990.

90-219

STAMP COLLECTING WEEK

Whereas, the popular hobby of stamp collecting is not only pleasurable but educational as well, providing fascinating remnants of the past and expressions of our lives and times today; and

Whereas, philatelists and others interested in stamp collecting have gathered for the past 32 years for COMEX (Combined Philatelic Exhibition of Chicago and), where hundreds of frames of rare and unusual stamps are displayed; and

Whereas, COMEX is the largest club-sponsored show in the United States, presenting the widest range of exhibits by children and adults alike; and

Whereas, the theme of the COMEX show this year will be "The 100th Anniversary of the United States as the Railroad Capitol of the World," bearing relevance to all Americans;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 21-27, 1990, as STAMP COLLECTING WEEK in Illinois. I welcome all visitors and exhibitors to our state and wish them a rewarding and enjoyable visit.

Issued by the Governor April 30, 1990.
Filed with the Secretary of State May 7, 1990.

90-220
TRUMAN DAY

Whereas, Harry S. Truman was the 33rd president of the United States; and

Whereas, Truman served as a U.S. Senator for the State of Missouri for 10 years before he was elected vice president in 1944. When President Roosevelt died in April 1945, Truman assumed the presidency and went on to win the presidential election of 1948; and

Whereas, Truman's accomplishments as president included guiding the country through the end of World War II, helping the economy stabilize and grow after the war, and assisting in the formation of the North Atlantic Treaty Organization; and

Whereas, President Truman pursued his goals with humanity, conviction, and wit and earned a reputation as one of America's most respected presidents;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 8, 1990, as TRUMAN DAY in Illinois in recognition of the invaluable contributions Harry S. Truman made to our country.

Issued by the Governor April 30, 1990.
Filed with the Secretary of State May 7, 1990.

90-221
CONGRATULATES BISHOP AND MRS. MAYO

Whereas, Reverend James Haskell Mayo has been appointed Bishop of the Fourth Episcopal District of the African Methodist Episcopal Church, making him the religious leader of more than 270 churches in the nation; and

Whereas, Mrs. Theodora H. Mayo is the Episcopal Supervisor of the Women's Missionary Society of the Fourth Episcopal District; and

Whereas, both Bishop Mayo and Mrs. Mayo have shown tireless devotion to the people of the Episcopal Church; and

Whereas, in Chicago on March 16, 1990, a celebration was held to honor the goodwill demonstrated by Bishop and Mrs. Mayo;

Therefore, I, James R. Thompson, Governor of the State of Illinois, extend congratulations to BISHOP AND MRS. MAYO for the dedication they have shown to the people they serve.

Issued by the Governor May 1, 1990.
Filed with the Secretary of State May 7, 1990.

90-222

NATIONAL GUARD 183RD TACTICAL FIGHTER GROUP DAY

Whereas, the 183rd Tactical Fighter Group of the Illinois National Guard is stationed in Springfield; and

Whereas, the 170th Tactical Fighter Squadron, known as the "Boys from Illinois," is also stationed in Springfield; and

Whereas, Major General Harold Hoelsinger is the Adjutant General for the State of Illinois; and

Whereas, the Group Commander is Colonel Richard E. McLane II and the Squadron Commander is Lt. Colonel Al Paige; and

Whereas, presently there are 18 jets F16-A model and one model B on base known as the "Flying Illini"; and

Whereas, the F16 Tactical "Demo" team performs for the United States Air Force; and

Whereas, six new General Dynamics F16 jets, known as the "Fighting Falcons" will be officially dedicated May 6, 1990, in Springfield;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 6, 1990, as NATIONAL GUARD 183RD TACTICAL FIGHTER GROUP DAY in Illinois.

Issued by the Governor May 1, 1990.

Filed with the Secretary of State May 7, 1990.

90-223

POLICE MEMORIAL DAY/NATIONAL POLICE WEEK/
NATIONAL POLICE MEMORIAL DAY

Whereas, police officers, guardians of life, property, and individual liberties, are also known as peace officers; and

Whereas, every five days, a police officer in the United States is killed in the line of duty; and

Whereas, six of the 67 United States police officers killed in the line of duty during 1989 were Illinois police officers; and

Whereas, these men and women, whose pursuit of justice makes our civilized society operate on a day-to-day basis, deserve our gratitude for the risks they take on our behalf; and

Whereas, it is appropriate that we demonstrate our appreciation of their valor, service, and dedication;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 3, 1990, as POLICE MEMORIAL DAY at the State Capitol in Springfield. The week of May 13-19, 1990, has been designated as NATIONAL POLICE WEEK. Illinois will also recognize May 15, 1990, as NATIONAL POLICE MEMORIAL DAY.

Issued by the Governor May 1, 1990.

Filed with the Secretary of State May 7, 1990.

90-224

STATE HORSERADISH FESTIVAL DAY

Whereas, the horseradish is an interesting and vital part of Southwestern Illinois and especially the city of Collinsville, the State Horseradish Capital; and

Whereas, this area of Illinois, nicknamed the "American Bottoms," produces nearly 75% of the United States' horseradish supply, making our state the leading horseradish grower; and

Whereas, coinciding with the completion of spring harvest and planting, the 3rd Annual International Horseradish Festival will be held May 5, 1990, in Collinsville;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 5, 1990, as STATE HORSERADISH FESTIVAL DAY in Illinois in keeping with the Collinsville celebration.

Issued by the Governor May 1, 1990.

Filed with the Secretary of State May 7, 1990.

90-225

ISRAEL BOND DAY

Whereas, the State of Israel Bond Campaign is in the forefront of fundraising efforts to help find housing for former Soviet Citizens who have taken up residence in the State of Israel; and

Whereas, these new citizens of Israel are beginning a new life in the free and democratic country of Israel; and

Whereas, the State of Israel Bond Campaign has provided more than 10 billion dollars for the development of the infrastructure of the State of Israel; and

Whereas, the Chicago Israel Bond Campaign has been in the forefront of leadership in raising these funds on behalf of the Worldwide Israel Bond Campaign; and

Whereas, May 9, 1990, is the Installation Dinner of Lawrence Goodman as general chairman of the State of Israel Bonds for Chicago;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 9, 1990, as ISRAEL BOND DAY in Illinois and wish Lawrence Goodman the best in his new position.

Issued by the Governor May 2, 1990.

Filed with the Secretary of State May 7, 1990.

90-226

SALUTES MARTIN R. BINDER AND MEMORIES OF CHINA

Whereas, Memories of China, located at 1050 North State Street in Chicago, offers a unique dining experience based upon the distinctive cuisine of the Hunan Providence in China; and

Whereas, the great talents and dedication of Martin R. Binder and his entire staff have helped Memories of China earn its

richly deserved praise; and

Whereas, the food and service at Memories of China are distinguished by their consistent excellence and robust character; and

Whereas, Memories of China has contributed to the quality of life in both the City of Chicago and the State of Illinois.

Therefore, I, James R. Thompson, Governor of the State of Illinois, salute MARTIN R. BINDER and MEMORIES OF CHINA and wish them continued success in the years ahead.

Issued by the Governor May 2, 1990.

Filed with the Secretary of State May 7, 1990.

90-227

SMALL BUSINESS WEEK

Whereas, a strong and stable economy is largely dependent on the determination and dedication of small business; and

Whereas, the State of Illinois has more than 350,000 small business establishments which produce the most new jobs; and

Whereas, the Governor's Small Business Advisory Council led by Lieutenant Governor George H. Ryan, the Department of Commerce and Community Affairs Small Business Assistance Bureau, the Governor's Commission on Science and Technology, the U.S. Small Business Administration, and the U.S. Department of Defense have made great strides in providing needed support programs to Illinois' small businesses; and

Whereas, the Illinois Export Council, the Illinois Export Development Authority, and the Department of Commerce and Community Affairs' International Business Division and International Trade Centers are committed to assisting small businesses enter the international trade market; and

Whereas, the largest future growth of small business will be contingent upon the heretofore largely untapped export marketplace;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 6-12, 1990, as SMALL BUSINESS WEEK in Illinois in honor of small business, which is so integral to this state's continuing economic growth.

Issued by the Governor May 2, 1990.

Filed with the Secretary of State May 7, 1990.

90-228

AMERICAN HOME WEEK

Whereas, the Fifth Amendment of the Bill of Rights assures us that no person shall be deprived of property without due process of the law; and

Whereas, this amendment provides that no private property be taken for public use without just compensation; and

Whereas, with these rights often comes the desire to improve

property, which enhances the value and the enjoyment of the property; and

Whereas, each year realtors call attention to the importance of private property rights by celebrating American Home Week; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 29-May 5, 1990, as AMERICAN HOME WEEK in Illinois, to remind citizens of their freedom to own private property, the importance of protecting the rights that accompany this ownership, and the value of improving such property.

Issued by the Governor May 3, 1990.
Filed with the Secretary of State May 7, 1990.

90-229
MOTORCYCLE AWARENESS DAY

Whereas, motorcycle accidents accounted for 1.4 percent of all motor vehicle accidents and, more significantly, 9.5 percent of all fatal motor vehicle accidents in 1988; and

Whereas, spring and summer mark the motorcycle riding season, making it imperative that motorists be aware of cyclists' presence in order to avoid accidents; and

Whereas, the Bi-State Motorcycle Awareness Council has instigated a "Motorcycle Awareness and You" campaign to make motorists aware that the height of the motorcycle riding season is here;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 5, 1990, as MOTORCYCLE AWARENESS DAY in Illinois and strongly urge all motorists and motorcyclists to exercise caution as they share the state's streets and highways.

Issued by the Governor May 3, 1990.
Filed with the Secretary of State May 7, 1990.

90-230
CONGRATULATES CATHERINE "KAYE" HOWELL

Whereas, Catherine "Kaye" Howell is well-versed in academics and is a diverse and creative thinker; and

Whereas, Catherine "Kaye" Howell is a member of the Downstate Art Educators and is an art teacher at Marion High School; and

Whereas, Catherine "Kaye" Howell has been instrumental in giving students a solid basis in arts education and supports inclusion of the arts in the state mandates; and

Whereas, Catherine "Kaye" Howell has dedicated many hours to helping children appreciate the visual arts in education; and

Whereas, Catherine "Kaye" Howell has the distinct honor of being the 1990 Illinois Art Educator of the Year; and

Whereas, Catherine "Kaye" Howell is a concerned taxpayer; Therefore, I, James R. Thompson, Governor of the State of Illinois, extend congratulations to CATHERINE "KAYE" HOWELL on her outstanding service and dedication to our citizens,

especially the children of our state.
Issued by the Governor May 4, 1990.
Filed with the Secretary of State May 7, 1990.

